



291-15

Nassau County Office of the County Executive

Staff Summary

Subject
Ordinance to Authorize County Executive to Execute Amendment to Long-Term Lease with Nassau District Energy Corp. (now known as Nassau Energy, LLC)
Department
County Executive
Department Head Name
Edward P. Mangano
Department Head Signature

Date
July 17, 2015
Vendor Name
Nassau Energy, LLC
Contract Number

Proposed Legislative Action					
	To	Date	Approval	Info	Other
	Assgn Comm.				
	Rules Comm				
	Full Leg				

Internal Approvals			
Date & Init.	Approval	Date & Initial	Approval
	Dept. Head	7/21/15	Counsel to C.E.
7/21/15	Budget	7/21/15	County Atty.
7/17/15	Deputy C.E.	7/17/15	County Exec.

Purpose:

This is an Ordinance to authorize Nassau County Executive Edward P. Mangano to execute an amendment to the lease with Nassau District Energy Corp. (now known as Nassau Energy, LLC) for the operation and maintenance of the County's District Energy Scheme ("DES") providing thermal energy to County and non-County users in and around the geographical area known as the Nassau Hub.

Discussion/Procedure:

In 1988, the County entered into a 25-year lease with Nassau District Energy Corp. (now known as Nassau Energy, LLC) to lease the County's existing Central Utility Plant and the Medical Plant at Nassau University Medical Center to provide thermal energy to customers in the Nassau Hub area. Pursuant to the lease, the lessee built a Cogeneration Plant adjacent to the existing County facilities that generates electricity that is sold to LIPA and thermal energy that is sold to the DES customers pursuant to an associated Master Energy Agreement. The term of the existing lease expires on May 31, 2016. The proposed amendment extends the term of the lease for one additional year and affords the County the opportunity to extend the term of the lease for a maximum of two years.

Under the one year extension option, which would extend the term for the period from June 1, 2016 through May 31, 2017, the County will receive guaranteed savings of \$950,000, with the opportunity to accrue an additional savings of up to \$1,750,000. Under the two year extension option, which would extend the term for the period from June 1, 2016 through May 31, 2018, the County will receive guaranteed savings each year of \$950,000, plus the opportunity to accrue additional savings of up to \$1,750,000 in the first extension year and \$1,250,000 in the second extension year, for a total possible savings of \$4,900,000. In addition, under the this two year extension option, title to the steam pipe connecting the Trigen facility to the Medical Plant at NUMC will transfer to the County for nominal value at the expiration of the term.

All other terms and conditions of the lease, including rental payments to the County remain the same.

RECEIVED
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NASSAU COUNTY

Impact on Funding:


Credit of \$950,000 and possible savings up to \$1,750,000 in the first extension year, with option for a second extension year yielding an additional credit of \$950,000 and possible savings up to \$1,250,000.

Recommendation:

Approve as submitted.

ORDINANCE NO. - 2015

AN ORDINANCE AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE AN AMENDMENT TO THE CERTAIN LEASE DATED AS OF FEBRUARY 2, 1990, BETWEEN NASSAU DISTRICT ENERGY CORP., NOW KNOWN AS NASSAU ENERGY, LLC, AS TENANT, OF CERTAIN PREMISES DESCRIBED AS SECTION 44, BLOCK F, P/O LOT 317C ON THE LAND AND TAX MAP OF NASSAU COUNTY LOCATED AT CHARLES A. LINDBERGH BOULEVARD, UNIONDALE, NEW YORK, ALL AS IN THE LEASE MORE PARTICULARLY DESCRIBED, AND AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE ALL PERTINENT DOCUMENTS IN CONNECTION THEREWITH TO CONSUMMATE THE LEASE AMENDMENT.

APPROVED AS TO FORM

Deputy County Attorney

2015 JUL 21 P 3:59
CLERK OF THE COUNTY
CLERK OF THE COUNTY

WHEREAS, pursuant to Ordinance No. 37-1990 the County of Nassau (the "County") leases to Nassau District Energy Corp., now known as Nassau Energy, LLC ("Tenant") the above-described property (hereinafter, the "Premises")

pursuant to a Lease Agreement originally made between County of Nassau, as landlord, and Nassau District Energy Corp., as tenant, executed by the County as of February 2, 1990 (the "Lease");

WHEREAS, the County and Tenant desire to amend the Lease to enable the County to continue to allow Tenant to provide thermal energy to County and non-County users in and around the geographical area known as the Nassau Hub;

BE IT ORDAINED BY THE LEGISLATURE OF THE COUNTY OF NASSAU AS FOLLOWS:

Section 1. The County Legislature of Nassau County hereby authorizes the County Executive to execute, on behalf of Nassau County, the Amendment, and to execute any and all other instruments and to take such other action as is necessary to effectuate the terms of the Lease and to carry out the purposes of the Amendment, as amended by the Amendment.

Section 2. Severability. If any part of or provision of this Ordinance or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part of or provision of or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Ordinance, or the application thereof to either persons or circumstances.

Section 3. It is hereby determined, pursuant to the provisions of the State Environmental Quality Review Act, 8 N.Y.E.C.L. section 0101 et seq. and its implementing regulations, Part 617 of 6 N.Y.C.R.R., and Section 1611 of the County Government Law of Nassau County, that the adoption of this local law is a "Type II" Action within the meaning of Section 617.5(c)(26) of 6 N.Y.C.R.R., and, accordingly, is of a class of actions which do not have a significant effect on the environment; and no further review is required.

Section 4. This ordinance shall take effect immediately.

County of Nassau

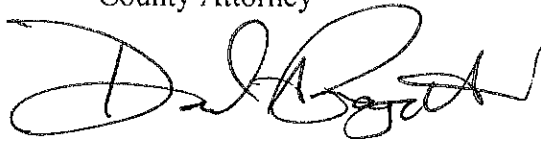
Inter-Departmental Memo

To: Clerk of the County Legislature
From: County Attorney
Date: July 17, 2015
Subject: **ORDINANCE - ORIG. DEPT.** – County Executive

AN ORDINANCE AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE AN AMENDMENT TO THE CERTAIN LEASE DATED AS OF FEBRUARY 2, 1990, BETWEEN NASSAU DISTRICT ENERGY CORP., NOW KNOWN AS NASSAU ENERGY, LLC, AS TENANT, OF CERTAIN PREMISES DESCRIBED AS SECTION 44, BLOCK F, P/O LOT 317C ON THE LAND AND TAX MAP OF NASSAU COUNTY LOCATED AT CHARLES A. LINDBERGH BOULEVARD, UNIONDALE, NEW YORK, ALL AS IN THE LEASE MORE PARTICULARLY DESCRIBED, AND AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE ALL PERTINENT DOCUMENTS IN CONNECTION THEREWITH TO CONSUMMATE THE LEASE AMENDMENT.

The above-described document attached hereto is forwarded for your review and approval and subsequent transmittal to the County Legislature for inclusion upon its calendar.

CARNELL T. FOSKEY
County Attorney



By: David A. Ragonetti
Deputy County Attorney

Attachment(s)

SECOND AMENDMENT TO LEASE AGREEMENT

THIS SECOND AMENDMENT TO LEASE AGREEMENT (this "Amendment") is made and entered into as of the day this Amendment is executed by Landlord by and between THE COUNTY OF NASSAU, a municipal corporation, acting solely in its proprietary, not governmental capacity, as landlord, together with its successors and assigns (the "Landlord"), having an address at 1550 Franklin Avenue, Mineola, New York 11501, and NASSAU DISTRICT ENERGY CORP. (now known as NASSAU ENERGY, LLC), a Delaware corporation authorized to do business in the State of New York, as tenant, together with its successors and permitted assigns (the "Tenant"), having an office address at 1990 Post Oak Blvd., Suite 1900, Houston, Texas 77056.

WITNESSETH:

WHEREAS, Landlord and Tenant entered into that certain Lease Agreement with an effective date as of February 2, 1990 (the "Lease") with respect to certain premises located at Charles A. Lindbergh Boulevard, Uniondale, New York, all as in the Lease more particularly described; and

WHEREAS, Landlord and Tenant are desirous of amending the Lease as set forth in this Amendment.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Landlord and Tenant agree that the Lease shall be modified and amended as follows:

1. Defined Terms. All capitalized terms used herein shall have the meaning set forth in the Lease unless otherwise expressly indicated herein to the contrary.

2. Term Extension. Pursuant to Section 12.13 of the Lease, Landlord and Tenant have mutually agreed to extend the Lease Term subject to the terms and conditions set forth in this Amendment. The Term of the Lease is hereby extended for a one (1) year renewal period commencing on June 1, 2016 and expiring on May 31, 2017 (the "Renewal Term"). Notwithstanding the foregoing, Landlord shall have the option to notify Tenant in writing on or before close of business on Friday, October 30, 2015 that the Lease Term shall be extended for a two (2) year renewal period commencing on June 1, 2016 and expiring on May 31, 2018 (the "Extended Renewal Term").

3. Landlord Credit.

(a) Tenant shall issue the Landlord credits on January 1, 2016 and January 1, 2017 each in the amount of Nine Hundred Fifty Thousand Dollars (\$950,000.00), which credit Landlord may apply to its invoices provided pursuant to this Lease or the Master Energy Agreement as it deems appropriate; provided, however, the January 1, 2017 credit shall only be issued by Tenant to Landlord if Landlord has elected to extend the Lease Term to two (2) years.

(b) Tenant shall additionally issue the Landlord any credit that accrues based on the formula and criteria set forth below on a monthly basis for the Renewal Term and Extended Renewal Term, if applicable, which credit Landlord may apply to its monthly invoices pursuant to this Lease or the Master Energy Agreement as it deems appropriate. The monthly formula and criteria is as follows:

Term	Renewal Term or Extended Renewal Term
Volume	5 MW
Hours	24
Gas Index*	Gas Daily Index (midpoint) -> Transco, zone 6 N.Y.
Power Index**	Day-Ahead Zonal NYISO LBMP Price -> LONGIL (daily avg)
Gas Adders	+ \$0.60 (Apr - Oct) / \$0.75 (Nov - Mar)
Heat Rate	10
VOM (Variable O&M)	\$2

Spread Formula	Power Index - ((Gas Index + Gas Adders) * Heat Rate) - VOM
Daily Calculation	max (\$0 , Volume * Hours * Spread Formula)
Cogeneration operation	Daily Calculation not applicable for any day Cogeneration plant does not operate
Max Annual Payout	For Renewal Term: \$1,750,000 / For Extended Renewal Term: \$1,250,000

* Gas index can be obtained in Platts Gas Daily publication.

** Power index can be obtained at

http://www.nyiso.com/public/markets_operations/market_data/pricing_data/index.jsp

4. Tenant Removal of Equipment. In the event Landlord elects to require Tenant to remove the equipment located in the Cogeneration Plant upon the expiration of the Renewal Term or Extended Renewal Term as applicable, pursuant to Section 12.13 of the Lease, Landlord will permit Tenant to take up to nine (9) months from the expiration of the Renewal Term or Extended Renewal Term, as applicable, to remove such equipment, provided that Tenant complies with the following conditions:

(a) Tenant shall cause such removal to occur pursuant to prudent utility industry standards and shall use commercially reasonable efforts to minimize damage to the Premises;

(b) In effecting the removal of the equipment Tenant shall coordinate such removal with the Landlord and/or its new tenant and shall use commercially reasonable efforts to minimize interference with the Landlord's and/or its new tenant's use, operation or control of the on-site facilities necessary for the provision of thermal energy services; and

(c) Landlord and Tenant shall identify and agree upon any equipment owned by Tenant which is necessary for the operation of the C.U.P. and which is shared with the Cogeneration Plant or physically located in the Cogeneration Plant that will remain in the

facility and not be removed or damaged in any removal process. Landlord and Tenant shall negotiate in good faith the compensation to be paid to Tenant for any such Tenant owned equipment that Landlord and Tenant agree should remain with the facility.

5. Book Value. The last paragraph of section 12.13 shall be modified by deleting the phrase "less an amount equal to the benefit to Tenant (to be mutually agreed by Landlord and Tenant) arising out of the extension of the Term" and substituting therefor the phrase:

"plus an amount equal to all capital expenditures made during the Renewal Term or Extended Renewal Term for the Cogeneration Plant, the Additional Pipes and other improvements constructed by Tenant during the Term due to prudent utility industry standards considering the remaining Term of the Lease. If Landlord does not timely notify Tenant of its intention to exercise the option contained herein, Tenant shall remove the equipment located in the Cogeneration Plant upon expiration of the Renewal Term or Extended Renewal Term, as applicable, and shall not be obligated to restore any damage, resulting from that removal, to the buildings and other improvements erected by Tenant and which do not constitute portions of the Premises."

6. Additional Pipes. In the event Landlord elects to exercise the Extended Renewal Term, title to the Additional Pipes shall belong to and remain with Tenant until the expiration of the Lease and the payment of One Dollar (\$1.00) to Tenant at which time title to the Additional Pipes shall transfer to Landlord. In such event, the Additional Pipes shall be removed from the "book value" calculation set forth in Section 12.13, which calculation shall then apply only to improvements to the Cogeneration Plant and other improvements constructed by Tenant during the Term.

7. Conflict. In the event of a conflict between any provisions contained in this Amendment and the Lease, the provisions contained in this Amendment shall govern and prevail.

8. No Further Modifications; Ratification; No Waiver. The Lease is and shall remain in full force and effect and except as expressly stated herein, this Amendment shall not otherwise affect, modify or alter any of the remaining obligations, rights, or remedies of the parties set forth in the Lease, and the parties hereto hereby ratify and confirm all provisions of the Lease, which, except as amended hereby, remain unchanged. All references to the "Lease" in the Lease shall mean the Lease as modified by this Amendment.

9. Governing Law. This Amendment shall be governed by, and construed and enforced in accordance with, the laws of the State of New York, without regard to the conflict of laws provisions thereof other than Sections 5-1401 and 5-1402 of the New York General Obligations Law.

10. Severability. Any provision of this Amendment which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or non-authorization without invalidating the

remaining provisions hereof or affecting the validity, enforceability or legality of such provisions in any other jurisdiction.

11. Counterpart Execution. This Amendment may be executed in counterparts, each of which shall be deemed an original copy and all of which together shall constitute one agreement binding on the parties hereto, notwithstanding that both the parties shall not have signed the same counterpart. Electronic signatures are deemed to be equivalent to original signatures for the purposes of this Amendment.

12. Compliance with Laws. (a) Generally. The Tenant shall comply with any and all applicable Federal, State and local Laws, including, but not limited to those relating to conflicts of interest, human rights, a living wage, disclosure of information and vendor registration in connection with its performance under this Lease. In furtherance of the foregoing, the Tenant is bound by and shall comply with the terms of Appendix EE attached hereto and with the Landlord's registration protocol. As used in this Lease the word "Law" includes any and all statutes, local laws, ordinances, rules, regulations, applicable orders, and/or decrees, as the same may be amended from time to time, enacted, or adopted.

(b) Nassau County Living Wage Law. Pursuant to LL 1-2006, as amended, and to the extent that a waiver has not been obtained in accordance with such law or any rules of the County Executive, the Tenant agrees as follows:

1. Tenant shall comply with the applicable requirements of the Living Wage Law, as amended;

2. Failure to comply with the Living Wage Law, as amended, may constitute a material breach of this Lease, the occurrence of which shall be determined solely by the Landlord. Tenant has the right to cure such breach within thirty days of receipt of notice of breach from the Landlord. In the event that such breach is not timely cured, the Landlord may terminate this Lease as well as exercise any other rights available to the Landlord under applicable law.

3. It shall be a continuing obligation of the Tenant to inform the Landlord of any material changes in the content of its certification of compliance, attached to this Lease as Appendix L, and shall provide to the Landlord any information necessary to maintain the certification's accuracy.

(c) Records Access. The parties acknowledge and agree that all records, information, and data ("Information") acquired in connection with performance or administration of this Lease shall be used and disclosed solely for the purpose of performance and administration of the contract or as required by law. The Tenant acknowledges that Tenant Information in the Landlord's possession may be subject to disclosure under Article 6 of the New York State Public Officer's Law ("Freedom of Information Law" or "FOIL"). In the event that such a request for disclosure is made, the Landlord shall make reasonable efforts to notify the Tenant of such request prior to disclosure of the Information so that the Tenant may take such action as it deems appropriate.

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Amendment as of the date first set forth above.

THE COUNTY OF NASSAU

By: _____
Name: Edward P. Mangano
Title: County Executive
Date: _____

NASSAU ENERGY LEC

By: _____
Name: Stefaan Sercu
Title: President & CEO
Vice _____ MAR

COUNTY OF NASSAU)

personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

NOTARY PUBLIC

COUNTY OF)

personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.



Appendix EE

Equal Employment Opportunities for Minorities and Women

The provisions of this Appendix EE are hereby made a part of the document to which it is attached.

The Contractor shall comply with all federal, State and local statutory and constitutional anti-discrimination provisions. In addition, Local Law No. 14-2002, entitled "Participation by Minority Group Members and Women in Nassau County Contracts," governs all County Contracts as defined herein and solicitations for bids or proposals for County Contracts. In accordance with Local Law 14-2002:

(a) The Contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status in recruitment, employment, job assignments, promotions, upgradings, demotions, transfers, layoffs, terminations, and rates of pay or other forms of compensation. The Contractor will undertake or continue existing programs related to recruitment, employment, job assignments, promotions, upgradings, transfers, and rates of pay or other forms of compensation to ensure that minority group members and women are afforded equal employment opportunities without discrimination.

(b) At the request of the County contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability, or marital status and that such employment agency, labor union, or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

(c) The Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the County Contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

(d) The Contractor shall make best efforts to solicit active participation by certified minority or women-owned business enterprises ("Certified M/WBEs") as defined in Section 101 of Local Law No. 14-2002, for the purpose of granting of Subcontracts.

(e) The Contractor shall, in its advertisements and solicitations for Subcontractors, indicate its interest in receiving bids from Certified M/WBEs and the requirement that Subcontractors must be equal opportunity employers.

(f) Contractors must notify and receive approval from the respective Department Head prior to issuing any Subcontracts and, at the time of requesting such authorization, must submit a signed Best Efforts Checklist.

(g) Contractors for projects under the supervision of the County's Department of Public Works shall also submit a utilization plan listing all

proposed Subcontractors so that, to the greatest extent feasible, all Subcontractors will be approved prior to commencement of work. Any additions or changes to the list of subcontractors under the utilization plan shall be approved by the Commissioner of the Department of Public Works when made. A copy of the utilization plan any additions or changes thereto shall be submitted by the Contractor to the Office of Minority Affairs simultaneously with the submission to the Department of Public Works.

(h) At any time after Subcontractor approval has been requested and prior to being granted, the contracting agency may require the Contractor to submit Documentation Demonstrating Best Efforts to Obtain Certified Minority or Women-owned Business Enterprises. In addition, the contracting agency may require the Contractor to submit such documentation at any time after Subcontractor approval when the contracting agency has reasonable cause to believe that the existing Best Efforts Checklist may be inaccurate. Within ten working days (10) of any such request by the contracting agency, the Contractor must submit Documentation.

(i) In the case where a request is made by the contracting agency or a Deputy County Executive acting on behalf of the contracting agency, the Contractor must, within two (2) working days of such request, submit evidence to demonstrate that it employed Best Efforts to obtain Certified M/WBE participation through proper documentation.

(j) Award of a County Contract alone shall not be deemed or interpreted as approval of all Contractor's Subcontracts and Contractor's fulfillment of Best Efforts to obtain participation by Certified M/WBEs.

(k) A Contractor shall maintain Documentation Demonstrating Best Efforts to Obtain Certified Minority or Women-owned Business Enterprises for a period of six (6) years. Failure to maintain such records shall be deemed failure to make Best Efforts to comply with this Appendix EE, evidence of false certification as M/WBE compliant or considered breach of the County Contract.

(l) The Contractor shall be bound by the provisions of Section 109 of Local Law No. 14-2002 providing for enforcement of violations as follows:

- a. Upon receipt by the Executive Director of a complaint from a contracting agency that a County Contractor has failed to comply with the provisions of Local Law No. 14-2002, this Appendix EE or any other contractual provisions included in furtherance of Local Law No. 14-2002, the Executive Director will try to resolve the matter.
- b. If efforts to resolve such matter to the satisfaction of all parties are unsuccessful, the Executive Director shall refer the matter, within thirty days (30) of receipt of the complaint, to the American Arbitration Association for proceeding thereon.
- c. Upon conclusion of the arbitration proceedings, the arbitrator shall submit to

the Executive Director his recommendations regarding the imposition of sanctions, fines or penalties. The Executive Director shall either (i) adopt the recommendation of the arbitrator (ii) determine that no sanctions, fines or penalties should be imposed or (iii) modify the recommendation of the arbitrator, provided that such modification shall not expand upon any sanction recommended or impose any new sanction, or increase the amount of any recommended fine or penalty. The Executive Director, within ten days (10) of receipt of the arbitrators award and recommendations, shall file a determination of such matter and shall cause a copy of such determination to be served upon the respondent by personal service or by certified mail return receipt requested. The award of the arbitrator, and the fines and penalties imposed by the Executive Director, shall be final determinations and may only be vacated or modified as provided in the civil practice law and rules ("CPLR").

(m) The contractor shall provide contracting agency with information regarding all subcontracts awarded under any County Contract, including the amount of compensation paid to each Subcontractor and shall complete all forms provided by the Executive Director or the Department Head relating to subcontractor utilization and efforts to obtain M/WBE participation.

Failure to comply with provisions (a) through (m) above, as ultimately determined by the Executive Director, shall be a material breach of the contract constituting grounds for immediate termination. Once a final determination of failure to comply has been reached by the Executive Director, the determination of whether to terminate a contract shall rest with the Deputy County Executive with oversight responsibility for the contracting agency.

Provisions (a), (b) and (c) shall not be binding upon Contractors or Subcontractors in the performance of work or the provision of services or any other activity that are unrelated, separate, or distinct from the County Contract as expressed by its terms.

The requirements of the provisions (a), (b) and (c) shall not apply to any employment or application for employment outside of this County or solicitations or advertisements therefor or any existing programs of affirmative action regarding employment outside of this County and the effect of contract provisions required by these provisions (a), (b) and (c) shall be so limited.

The Contractor shall include provisions (a), (b) and (c) in every Subcontract in such a manner that these provisions shall be binding upon each Subcontractor as to work in connection with the County Contract.

As used in this Appendix EE the term "Best Efforts Checklist" shall mean a list signed by the Contractor, listing the procedures it has undertaken to procure Subcontractors in accordance with this Appendix EE.

As used in this Appendix EE the term "County Contract" shall mean (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of twenty-five thousand dollars (\$25,000), whereby a County contracting agency is committed to expend

or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the County; or (ii) a written agreement in excess of one hundred thousand dollars (\$100,000), whereby a County contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon. However, the term "County Contract" does not include agreements or orders for the following services: banking services, insurance policies or contracts, or contracts with a County contracting agency for the sale of bonds, notes or other securities.

As used in this Appendix EE the term "County Contractor" means an individual, business enterprise, including sole proprietorship, partnership, corporation, not-for-profit corporation, or any other person or entity other than the County, whether a contractor, licensor, licensee or any other party, that is (i) a party to a County Contract, (ii) a bidder in connection with the award of a County Contract, or (iii) a proposed party to a County Contract, but shall not include any Subcontractor.

As used in this Appendix EE the term "County Contractor" shall mean a person or firm who will manage and be responsible for an entire contracted project.

As used in this Appendix EE "Documentation Demonstrating Best Efforts to Obtain Certified Minority or Women-owned Business Enterprises" shall include, but is not limited to the following:

- a. Proof of having advertised for bids, where appropriate, in minority publications, trade newspapers/notices and magazines, trade and union publications, and publications of general circulation in Nassau County and surrounding areas or having verbally solicited M/WBEs whom the County Contractor reasonably believed might have the qualifications to do the work. A copy of the advertisement, if used, shall be included to demonstrate that it contained language indicating that the County Contractor welcomed bids and quotes from M/WBE Subcontractors. In addition, proof of the date(s) any such advertisements appeared must be included in the Best Effort Documentation. If verbal solicitation is used, a County Contractor's affidavit with a notary's signature and stamp shall be required as part of the documentation.
- b. Proof of having provided reasonable time for M/WBE Subcontractors to respond to bid opportunities according to industry norms and standards. A chart outlining the schedule/time frame used to obtain bids from M/WBEs is suggested to be included with the Best Effort Documentation
- c. Proof or affidavit of follow-up of telephone calls with potential M/WBE subcontractors encouraging their participation. Telephone logs indicating such action can be included with the Best Effort Documentation
- d. Proof or affidavit that M/WBE Subcontractors were allowed to review bid specifications, blue prints and all other bid/RFP related items at no charge to the M/WBEs, other than reasonable documentation costs incurred by the County Contractor that are passed onto the M/WBE.
- e. Proof or affidavit that sufficient time prior to making award was allowed for

M/WBEs to participate effectively, to the extent practicable given the timeframe of the County Contract.

- f. Proof or affidavit that negotiations were held in good faith with interested M/WBEs, and that M/WBEs were not rejected as unqualified or unacceptable without sound business reasons based on (1) a thorough investigation of M/WBE qualifications and capabilities reviewed against industry custom and standards and (2) cost of performance. The basis for rejecting any M/WBE deemed unqualified by the County Contractor shall be included in the Best Effort Documentation
- g. If an M/WBE is rejected based on cost, the County Contractor must submit a list of all sub-bidders for each item of work solicited and their bid prices for the work.
- h. The conditions of performance expected of Subcontractors by the County Contractor must also be included with the Best Effort Documentation
- i. County Contractors may include any other type of documentation they feel necessary to further demonstrate their Best Efforts regarding their bid documents.

As used in this Appendix EE the term "Executive Director" shall mean the Executive Director of the Nassau County Office of Minority Affairs; provided, however, that Executive Director shall include a designee of the Executive Director except in the case of final determinations issued pursuant to Section (a) through (l) of these rules.

As used in this Appendix EE the term "Subcontract" shall mean an agreement consisting of part or parts of the contracted work of the County Contractor.

As used in this Appendix EE, the term "Subcontractor" shall mean a person or firm who performs part or parts of the contracted work of a prime contractor providing services, including construction services, to the County pursuant to a county contract. Subcontractor shall include a person or firm that provides labor, professional or other services, materials or supplies to a prime contractor that are necessary for the prime contractor to fulfill its obligations to provide services to the County pursuant to a county contract. Subcontractor shall not include a supplier of materials to a contractor who has contracted to provide goods but no services to the County, nor a supplier of incidental materials to a contractor, such as office supplies, tools and other items of nominal cost that are utilized in the performance of a service contract.

Provisions requiring contractors to retain or submit documentation of best efforts to utilize certified subcontractors and requiring Department head approval prior to subcontracting shall not apply to inter-governmental agreements. In addition, the tracking of expenditures of County dollars by not-for-profit corporations, other municipalities, States, or the federal government is not required.

~~Appendix E~~

Appendix L

Certificate of Compliance

In compliance with Local Law 1-2006, as amended (the "Law"), the Contractor hereby certifies the following:

1. The chief executive officer of the Contractor is:

_____ *Herman Schopman* _____ (Name)

_____ *1990 Post Oak Blvd., Suite 1900, Houston, TX 77056* _____ (Address)

_____ *713-636-1276* _____ (Telephone Number)

2. The Contractor agrees to either (1) comply with the requirements of the Nassau County Living Wage Law or (2) as applicable, obtain a waiver of the requirements of the Law pursuant to section 9 of the Law. In the event that the Contractor does not comply with the requirements of the Law or obtain a waiver of the requirements of the Law, and such Contractor establishes to the satisfaction of the Department that at the time of execution of this Agreement, it had a reasonable certainty that it would receive such waiver based on the Law and Rules pertaining to waivers, the County will agree to terminate the contract without imposing costs or seeking damages against the Contractor

3. In the past five years, Contractor _____ has X has not been found by a court or a government agency to have violated federal, state, or local laws regulating payment of wages or benefits, labor relations, or occupational safety and health. If a violation has been assessed against the Contractor, describe below:

4. In the past five years, an administrative proceeding, investigation, or government body-initiated judicial action _____ has X has not been commenced against or relating to the Contractor in connection with federal, state, or local laws regulating payment of wages or benefits, labor relations, or occupational safety and health. If such a proceeding, action, or investigation has been commenced, describe below:

5. Contractor agrees to permit access to work sites and relevant payroll records by authorized County representatives for the purpose of monitoring compliance with the Living Wage Law and investigating employee complaints of noncompliance.

I hereby certify that I have read the foregoing statement and, to the best of my knowledge and belief, it is true, correct and complete. Any statement or representation made herein shall be accurate and true as of the date stated below. /

7/21/15
Dated

Signature of Chief Executive Officer

Herman Schopman

Name of Chief Executive Officer

Sworn to before me this

21st day of July, 2015.

Mary Kay Kunka
Notary Public



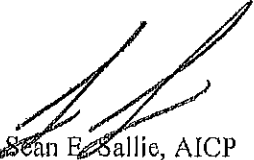
**Nassau County Department of Public Works
Inter-Departmental Memo**

Date: July 17, 2015
To: Office of the County Executive
From: Sean Sallie, AICP, Planning Supervisor
Subject: Proposed Amendment to Long-term Lease with Nassau District Energy Corp.
SEQR Classification
[Article 8 of the NYS Environmental Conservation Law, Article]

The proposed Ordinance would authorize Nassau County Executive Edward P. Mangano to execute an amendment to the lease with Nassau District Energy Corp. (now known as Nassau Energy, LLC) for the operation and maintenance of the County's District Energy Scheme ("DES") providing thermal energy to County and non-County users in and around the geographical area known as the Nassau Hub. The term of the existing lease expires on May 31, 2016. The proposed amendment extends the term of the lease for one additional year and affords the County the opportunity to extend the term of the lease for a maximum of two years.

The proposed Ordinance is considered a **Type II** Action under New York Environmental Conservation Law, Section 617.5 (c) (26) – license, lease or permit renewals, ..., where there will be no material change in permit conditions or scope of permitted activities. In accordance with Section 617.3 (f) – no SEQR determination of significance, EIS or findings statement is required for actions which are classified as Type II.

A copy of this memo should be provided to the Nassau County Legislature as it is the lead agency with respect to SEQRA.



Sean E. Sallie, AICP
Planning Division Supervisor

LEASE AGREEMENT

between

COUNTY OF NASSAU, Landlord

and

NASSAU DISTRICT ENERGY CORP., Tenant

RECORDED: NASSAU COUNTY CLERK'S OFFICE
AUGUST 27, 1990
LIBER 10087, PAGE 159.

Effective Date Agreement

Agreement made this 16th day of February, 1990, between the COUNTY of NASSAU, a municipal corporation having its principal office at the Nassau County Executive Building, 1 West Street, Mineola, New York 11501, hereinafter referred to as "Landlord", and NASSAU DISTRICT ENERGY CORP., a Delaware corporation having an office at One Water Street, White Plains, New York 10601, hereinafter referred to as "Tenant".

W I T N E S S E T H

1. The parties have heretofore entered into a written Lease Agreement executed by Tenant on January 17, 1990 and by Landlord on February 2, 1990 (hereinafter referred to as the "Lease") for the leasing by Landlord to Tenant of certain property located at Charles A. Lindbergh Boulevard, Uniondale, New York, all as in the Lease more particularly described.

2. Pursuant to Article 3 of the Lease, Landlord and Tenant agree that the Effective Date of the term of the Lease was February 2, 1990; notwithstanding the failure to obtain all necessary signatures on the easement substantially in the form of Exhibit G to the Lease on or prior to such date.

3. Any reference in Section 3.01 of the Lease to Tenant's right to declare the Lease null and void upon the failure to occur of certain events on or prior to January 31, 1990 is hereby waived.

IN WITNESS WHEREOF, Landlord and Tenant have respectively signed and sealed this Effective Date Agreement as of the day and year first above written.

NASSAU DISTRICT ENERGY CORP.

By: John A. Martinelli

COUNTY OF NASSAU, Landlord

By: John Chaggi

As to those Sections of the Lease
pertaining to the Medical Plant
only: |

NASSAU COUNTY MEDICAL CENTER

By: James E. Hines, Jr.

APPROVED:

James E. Hines, Jr.
Deputy County Attorney

Louis A. Miller
Commissioner, Department of
General Service

Frederick B. Hall
Commissioner, Department of
Public Works

Peter T. King
County Comptroller
PETER T. KING 4/14/09

STATE OF NEW YORK)
) ss.:
COUNTY OF NASSAU)

On this _____ day of _____, 1990, before me personally appeared THOMAS S. GULLOTTA, County Executive of the County of Nassau, the municipal corporation described herein, and who executed the foregoing instrument, to me known and known to me to be such County Executive and he being by me duly sworn, did depose and say: that he is the County Executive of Nassau County; and that he executed the same as such County Executive for the purposes therein mentioned.

NOTARY PUBLIC

STATE OF NEW YORK)
) ss.:
COUNTY OF NASSAU)

On this 30th day of April, 1990, before me personally appeared Santa C. Rozzi, Deputy County Executive of the County of Nassau, the municipal corporation described herein and who executed the foregoing instrument, to me known and known to me to be such Deputy County Executive, and she by me being duly sworn, did depose and say: that she is the Deputy County Executive of the County of Nassau and that pursuant to Section 205 of the County Government Law of Nassau County executed the same as such Deputy County Executive for the purposes therein mentioned.

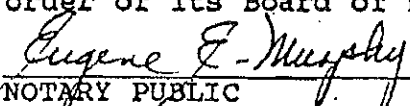


NOTARY PUBLIC

DANIEL J. McCLOY
NOTARY PUBLIC, State of New York
No. 30-4795436
Qualified in Nassau County
Commission Expires March 30, 1990
N.Y.

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

On this 16th day of February, 1990, before me personally came John Martorella to me known, who being by me duly sworn, did depose and say: that he resides at 1 Birch Lane, Valley Stream, New York 11581 and that he is the Vice President of Nassau District Energy Corp. the corporation described in and which executed the above agreement; and that he signed his name thereto by order of its Board of Directors.



NOTARY PUBLIC

EUGENE E. MURPHY
Notary Public, State of New York
No. 60-8007951
Qualified in Westchester County
Commission Expires March 30, 1992

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- Exhibit H - Electrical Interconnect Survey
- Exhibit I - Uninsurable Risks

LEASE AGREEMENT between COUNTY OF NASSAU, a municipal corporation having its principal office at the Nassau Executive Building, 1 West Street, Mineola, New York 11501 ("Landlord") and NASSAU DISTRICT ENERGY CORP., a Delaware corporation authorized to do business in the State of New York, having an office at One Water Street, White Plains, New York 10601. ("Tenant").

W I T N E S S E T H:

WHEREAS, Landlord owns and desires to lease the Premises (as hereinafter defined) to Tenant, and Tenant desires to lease the Premises from Landlord, on the terms and subject to the conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing, of the rents to be paid and all of the covenants herein contained, the parties hereto agree as follows:

ARTICLE 1 - DEFINITIONS

Section 1.01 DEFINITIONS: As used in this Lease, the following words and phrases shall have the meanings indicated below:

Additional Pipes shall have the meaning set forth in Section 7.02.

Affiliate shall have the meaning set forth in Section 10.01.

Affiliate Sublease shall have the meaning set forth in Section 10.01.

Approved Operator shall have the meaning set forth in Section 9.02(a)

Base Rent shall have the meaning set forth in Section 4.01(b).

Cogeneration Plant shall have the meaning set forth in Section 7.01.

Construction Term shall have the meaning set forth in Section 3.02(a).

Construction Term Commencement Date shall have the meaning set forth in Section 3.02(a).

Constructive Total Taking shall have the meaning set forth in Section 14.01(b).

DM *JM*

County shall have the meaning set forth in Section 2.01.

C.U.P. shall have the meaning set forth in Section 2.01.

Demised Land shall have the meaning set forth in Section 2.01.

Effective Date shall have the meaning set forth in Section 3.01.

Electrical Equipment shall have the meaning set forth in Section 7.02.

Equipment shall have the meaning set forth in Section 2.01.

Event of Default shall have the meaning set forth in Section 12.02.

Existing Pipes shall have the meaning set forth in Section 2.01.

Force Majeure shall have the meaning set forth in Section 12.17

Institutional Lender shall mean any of the following: (i) a commercial bank, savings bank, savings and loan, pension trust, insurance company, investment banking firm or other company having as one of its principal business segments for the purposes of its financial statements, the business of lending money or banking or making investments through leveraged leases, sale and leasebacks or otherwise, and which has a net worth in excess of fifty million (\$50,000,000) dollars, provided that such an entity shall not be an "affiliated person" (as such term is defined in the Investment Companies Act of 1940) of Tenant or any entity directly or indirectly holding a possessory interest in Tenant and (ii) any of the above described entities acting as an owner trustee or as a corporate trustee under a trust indenture for the benefit of bondholders.

Institutional Sublease shall have the meaning set forth in Section 10.01.

Leasehold Mortgages and Leasehold Mortgagees shall have the meanings set forth in Section 9.02.

LILCO shall mean Long Island Lighting Company.

Master Energy Agreement shall mean that separate agreement between Landlord and Tenant entered into contemporaneously herewith whereby Tenant shall supply thermal energy and cooling

service to various facilities owned by Landlord or for which Landlord is obligated to supply such service.

Medical Plant shall have the meaning set forth in Section 2.01.

Parallel Generation Agreement shall mean that separate agreement between Tenant and LILCO whereby Tenant shall sell electric energy to be generated at the Cogeneration Plant.

PM Program shall have the meaning set forth in Section 8.01.

Premises shall have the meaning set forth in Section 2.01.

Preventive Maintenance Committee shall have the meaning set forth in Section 8.01.

Principal Term shall have the meaning set forth in Section 3.02(b).

Principal Term Commencement Date shall have the meaning set forth in Section 4.01(b).

Qualified Depository shall mean a savings bank, a savings and loan association or a commercial bank or trust company which would qualify as an Institutional Lender, designated by Tenant and approved by Landlord, to serve as a depository of insurance proceeds pursuant to this Lease.

Rent shall mean, collectively, Base Rent and additional rent, if any.

Service Contract shall mean that certain agreement dated January 28, 1987, as amended, between Landlord and Tenant whereby Tenant, as a contract service provider to the County, has taken over the management and operation of the C.U.P. during the interim period before commencement of Tenant's cogenerated district heating and cooling system.

Taxes shall have the meaning set forth in Section 5.01.

Tenant's Facility shall mean the land, improvements, fixtures, equipment, installations, including the Premises and the Cogeneration Plant, acquired, installed, constructed, leased, owned and/or operated by Tenant in connection with the operation or intended operation of a cogenerated district heating and cooling system in the County.

Tenant's Property shall have the meaning set forth in Section 10.01.

Term shall have the meaning set forth in Section 3.02(b).

Utility Expenses shall have the meaning set forth in Section 5.01.

ARTICLE 2 - DESCRIPTION AND USE

Section 2.01 THE PREMISES: Landlord hereby leases and lets to Tenant, and Tenant hereby takes and hires from Landlord, upon and subject to the terms, covenants, conditions and provisions hereof, (i) during the Construction Term all that certain tract, piece or parcel of land situated in the vicinity of Mitchel Field, Uniondale, County of Nassau (the "County") and State of New York, being more particularly described on ~~Exhibit A~~ annexed hereto and made a part hereof, and any right, title and interest of Landlord in and to all appurtenances, rights, privileges and easements benefitting, belonging or pertaining thereto (the "Construction Term Land"), and during the Principal Term, all that certain tract, piece or parcel of land situated in the vicinity of Mitchel Field, Uniondale, County of Nassau and State of New York, being more particularly described on ~~Exhibit B~~ annexed hereto and made a part hereof (the "Principal Term Land") (the Construction Term Land and the Principal Term Land referred to collectively as the "Demised Land"), subject, however, to matters noted on ~~Exhibit C~~ annexed hereto and made a part hereof and all other matters of record, (ii) during the Principal Term only, any and all improvements presently located on the Demised Land including, without limitation, the facility known as the Central Utilities Plant (the "C.U.P.") and, to the extent owned by Landlord, all equipment (including the electrical duct bank and underground electric lines located on the Demised Land), installations, fixtures and furnishings presently located therein as repaired, supplemented, modified or replaced from time to time (collectively, the "Equipment"), the Equipment being more particularly described and itemized on ~~Exhibit D~~ annexed hereto and made part hereof, (iii) during the Principal Term only, all underground pipes presently existing and used and useable in connection with the C.U.P. to the extent owned by Landlord (collectively, the "Existing Pipes"), the Existing Pipes being more particularly described on ~~Exhibit E~~ annexed hereto and made a part hereof, and (iv) during the Principal Term only, that portion of the Nassau County Medical Center and the Nassau County Correctional Center, sufficient to install Tenant's "point of delivery" equipment therein, and all equipment, installations, fixtures and furnishings presently located therein more particularly described on ~~Exhibit F~~ annexed hereto and made a part hereof (together, the "Medical Plant") (the Demised Land,

the C.U.P, the Equipment, the Existing Pipes and the Medical Plant are collectively referred to herein as the "Premises").

Section 2.02 REPRESENTATIONS, WARRANTIES AND CERTAIN COVENANTS:

(a) Representations and Warranties of Landlord.

Landlord represents and warrants as follows:

(i) Landlord has full right, power and authority to execute, deliver and perform the terms of this Lease. To the best of its knowledge, Landlord has received all necessary consents and approvals, has notified all necessary parties, taken all steps and conformed with all procedures required by any law, rule or regulation for the execution of this Lease. This Lease constitutes the valid and binding obligation of Landlord enforceable against Landlord in accordance with its terms;

(ii) the execution, delivery and performance of this Lease by Landlord does not and will not contravene the provisions of any law, governmental rule, regulation or order as in effect on the day hereof and applicable to Landlord or result in a violation of, or constitute a default under, any indenture, contract, agreement or other instrument to which it is a party;

(iii) title to the Equipment is free and clear of any liens and encumbrances that would adversely affect their utilization by Tenant in connection with the generation and distribution of thermal and electrical energy pursuant to this Lease and the Master Energy Agreement;

(iv) To the best of Landlord's knowledge, there is no required modification, cancellation or denial of an application for renewal of any permit which has been threatened by the granting authority applicable to the lawful use and operation of the C.U.P. and the Medical Plant;

(v) To the best of Landlord's knowledge, (i) Landlord has received no written notice of any outstanding or threatened order, notice of violation or non-compliance from any federal, state, municipal or other authority regulating environmental matters in connection with operation of the C.U.P., Tenant acknowledging, however, that Landlord has advised it of the presence of asbestos in the C.U.P. and that Landlord is in violation of applicable law requiring the testing of its underground fuel storage tanks; (ii) there are no outstanding payments, claims or judgments against Landlord with respect to the C.U.P., private or governmental, arising under any federal,

state, municipal or other environmental or health and safety laws, regulations, orders or requirements; (iii) Landlord has not disposed of or caused the disposal of any "hazardous waste" or "hazardous substance" (as such terms are defined under the federal Comprehensive Environmental Response, Compensation and Liability Act, the Superfund Amendment and Reauthorization Act and the Resource Conservation and Recovery Act, or the New York Environmental Conservation Law, Sections 40-1010 and 27-0901, et seq. upon any of the Demised Land; and (iv) Landlord has received no notice of any "release" or "threatened release" of any "hazardous substance" or "hazardous waste" (as such terms are defined under such statutes) with respect to the C.U.P. or the Demised Land. Landlord has identified to Tenant the general location of all underground storage tanks located on the Demised Land and used by the C.U.P.;

(vi) there are no pending claims, suits or judgements that may result in the imposition of a lien against any of the Demised Land;

(vii) the Demised Premises and the construction laydown area being licensed to Tenant pursuant to separate agreement with the Nassau County Community College have and, to the extent necessary using properties owned by Landlord, will have during the Term, free and uninterrupted access to and from a dedicated public right of way by reason of the fact that these parcels either (i) adjoin such dedicated public right-of-way or (ii) connect to the dedicated public right of way through a valid and subsisting ingress and egress easement.

(viii) all assessments for public improvements that have been or may hereafter be made against the Demised Premises prior to the Principal Term Commencement Date will remain the obligation of Landlord;

(b) Landlord shall retain full responsibility for maintaining all existing underground fuel storage tanks located on and serving the C.U.P., including, without limitation, (i) ordinary and extraordinary maintenance; (ii) insuring their compliance with all laws, rules, regulations, and codes, including, without limitation, those relating to the environment; (iii) replacement of those tanks (to the extent necessary to serve the C.U.P. as a secondary fuel, for which the parties agree that Landlord's obligations shall not exceed providing replacement tanks with a capacity of approximately 150,000 gallons of fuel oil and the balance of the replacement capacity shall be Tenant's responsibility and expense with such installation to be effected in such manner and in such location as shall not materially adversely affect any replacement

activities by Landlord) with either above or below ground tanks if necessary to comply with laws, rules, regulations and codes or where routine and extraordinary maintenance will not insure their continued uninterrupted service to Tenant's Facility. Upon failure by Landlord to make any repair or replacement to the fuel storage tanks which would jeopardize service to be provided by Tenant, Tenant may, upon not less than 90 days written notice to Landlord, unless Landlord has commenced that repair or replacement and is diligently continuing to complete that work, undertake and complete those repairs and replacements itself at Landlord's expense.

(c) Representations, Warranties and Certain Covenants of Tenant. Tenant warrants, represents and covenants as follows:

(i) Tenant is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, is qualified to do business and is in good standing in New York, and has full corporate power and authority to enter into and perform the terms of this Lease and the transactions on its part to be performed, as contemplated in this Lease. Tenant has received all necessary consents and approvals, has notified all necessary parties, taken all steps and conformed with all procedures required by any law, rule or regulation for the execution of this Lease. This Lease constitutes the valid and binding obligation of Tenant enforceable against Tenant in accordance with its terms.

(ii) ~~of the~~ the execution of this Lease and consummation of the transactions contemplated in this Lease by Tenant will not conflict with, result in a breach of the terms of, or constitute a default under the Certificate of Incorporation or By-Laws of Tenant or any loan, agreement, or other instrument to which Tenant is a party;

(iii) the execution, delivery and performance of this Lease by Tenant do not and will not contravene the provisions of any law, governmental rule, regulation or order as in effect on the day hereof and applicable to Tenant or result in a violation of, or constitute a default under, any indenture, contract, agreement or other instrument of which it is a party;

(iv) in its operation of the Premises and Tenant's Facility, Tenant shall follow sound management practices, maintain and operate the Premises and Tenant's Facility in accordance with good industry standards and at the beginning of each fiscal year of Tenant shall submit to Landlord for its review a copy of the expense budget for such year;

(v) Tenant, or any entity executing a guarantee of this Lease as required hereunder pursuant to Section 2.02(c)(vi), shall at all times maintain a net worth, excluding good will and other intangibles, of not less than \$6.5 million, which Tenant (or said other entity) shall verify to Landlord annually by statements rendered by Tenant's (or said other entity's) independent certified public accountant, which statements shall specify that said accountant has audited the financial statements of the Tenant or other entity and that the Tenant or other entity has a net worth of no less than \$6.5 million computed on the basis of generally accepted accounting principles consistently applied;

(vi) if Tenant's net worth, excluding good will and other intangibles, is at any time less than \$6.5 million, Tenant shall so notify Landlord and may satisfy its obligations contained in (v) above, by providing a guarantee in that amount from an affiliated entity with a net worth, excluding good will and other intangibles, of \$6.5 million or more, a letter of credit in that amount or other security satisfactory to Landlord. The guarantee, letter of credit or other security shall be in a form reasonably satisfactory to Landlord;

(d) Landlord shall bear all expenses reasonably necessary or incident to the removal, encapsulation or other disposition of asbestos required pursuant to applicable laws, rules and regulations ("Asbestos Laws") currently in effect, except that Tenant shall be responsible for complying with the Asbestos Laws with respect to areas of asbestos within the C.U.P., the Medical Plant and other facilities of Landlord which are affected by and/or the removal of which, encapsulation or other disposition is necessitated by the disturbance or removal of asbestos resulting from the connection of the Cogeneration Plant to the C.U.P., the Medical Plant and other facilities of Landlord. In addition, from and after the Principal Term Commencement Date, and during the Principal Term Tenant shall, at Tenant's expense, maintain Tenant's Facility in compliance with applicable Asbestos Laws and shall bear all expenses necessary or incident to the removal, encapsulation or other disposition of asbestos or asbestos contaminated material required thereby.

Section 2.03 USE OF THE PREMISES

(a) Tenant's Facility shall be used for the generation and distribution of thermal and electrical energy and related purposes, and for no other purpose.

(b) Notwithstanding the foregoing, Tenant, its subtenants, assignees and other occupants shall not use the Premises or allow the same to be used or occupied by any party, (other than Landlord for whose use Tenant shall not be responsible) for any unlawful purpose or in violation of any law affecting the use of the Premises. In the event of any use or intended use of the Premises that would be in conflict with the use described in subsection (a) above, Landlord shall have, in

gm

addition to any other remedy allowed by law, the right to an injunction and declaratory judgment relief prohibiting Tenant from such use.

ARTICLE 3 - TERM OF LEASE

Section 3.01 EFFECTIVE DATE: The effective date of this Lease (the "Effective Date") shall be the date upon which the execution of this Lease for and on behalf of Landlord shall have become final and all necessary signatures (which, for the Landlord, shall be the Nassau County Executive or his duly authorized representative), including, without limitation, signatures on the easement substantially in the form of [REDACTED] and, signatures on an easement in a form to be agreed which will reflect the easement location described in [REDACTED] (but without delaying the Effective Date if no such easement has been signed). The parties shall, after the Effective Date, execute and deliver to each other a document confirming the date of the Effective Date, provided that failure by either party to execute or deliver that document shall not constitute a breach of its obligations under this Lease. Tenant shall have the right to declare this Lease null and void, at its option, in the event this Lease has not been executed for and on behalf of Landlord and all necessary signatures and approvals by the signatories listed above have not been obtained and no proceeding to stay the implementation of the Lease has been commenced prior to January 31, 1990, in which event neither party hereto shall have any further obligation to the other hereunder or in connection with the transaction contemplated hereby.

Section 3.02 TERM OF LEASE:

(a) Construction Term. Tenant shall have access to and be entitled to enter upon the Demised Land for the purpose of constructing Tenant's Facility for a period commencing on the Effective Date and ending on the Principal Term Commencement Date. Landlord shall cooperate with Tenant and its contractors, agents and representatives in the provision of utility services, including without limitation, electric, water, sewer and telephone, for use in constructing Tenant's Facility. Tenant or Tenant's contractors, agents or representatives shall be solely responsible for making all such arrangements for its use of such utilities during the Construction Term. The cost of all such arrangements and utility usage shall be borne by Tenant. When possible, Tenant will arrange for separate metering of its utility use during the Construction Term.

During the Construction Term, Landlord shall license to Tenant, at no additional cost to Tenant, access (subject to rules and regulations established by the Department of Public Works) to the C.U.P., the Equipment, the Medical Plant and the Existing

Pipes to connect or prepare the C.U.P. for connection to the Cogeneration Plant, to make alterations or improvements as Tenant shall deem necessary and for any other purpose necessary or useful to construction of the Cogeneration Plant and preparation for the delivery and sale of cogenerated heating or cooling service under the Master Energy Agreement. No such alternation or improvement may materially or permanently damage the C.U.P. or the Medical Plant or impair their value or function as operating thermal energy plants.

If operation of the Tenant's Facilities, including without limitation the Medical Plant, is presently subject to licenses, authorizations or permits of any kind from any third party or any federal, state or local department or agency, Landlord shall assign and transfer or cause to be assigned and transferred all such assignable existing licenses, authorizations or permits to Tenant from and after the Principal Term Commencement Date.

For the purposes of this Lease, the "Construction Term Commencement Date" shall be the Effective Date.

(b) Principal Term. The Principal Term of this Lease shall be for a period commencing on the Principal Term Commencement Date, and unless sooner terminated as herein provided, expiring on the 25th anniversary of that date.

For purposes hereof, any reference to the "Term" shall refer to the Construction Term and the Principal Term.

Section 3.03 ~~THE SERVICE CONTRACT~~. The respective rights and obligations of Landlord and Tenant prior to expiration of the Construction Term shall be governed by the terms and provisions contained in Sections 3, 4 (except Tenant's obligations to carry insurance, which shall be governed by Article 6 hereof), 6, 8 and 10-16 of the Service Contract and by all Exhibits to the Service Contract. The Service Contract shall terminate upon the Principal Term Commencement Date, with all rights of Landlord and Tenant to monies due, indemnifications and maintenance under the Service Contract, if any, surviving termination of that contract. During the Construction Term, Landlord shall continue to operate the Medical Plant.

ARTICLE 4 - RENT

Section 4.01 RENT:

(a) During the Construction Term, Tenant covenants and agrees to pay fixed rent of \$50,000 per annum. From and after the Principal Term Commencement Date, Tenant covenants and agrees

to pay to Landlord fixed rent for the Premises in the amount of \$600,000 per annum. (All fixed rent payable during the Construction Term and the Principal Term shall be referred to as the "Base Rent"). All Rent shall be paid by Tenant by check, subject to collection, in equal monthly installments in advance, on the first day of each month during the Term commencing on the Construction Term Commencement Date, and shall be payable at Landlord's office on the date first above set forth or at such other place of which Landlord shall have given Tenant written notice at least thirty (30) days in advance.

(b) The "Principal Term Commencement Date" shall be that date which is the first day of the calendar month following the calendar month of the earlier to occur of the following:

(i) all of the following conditions have been satisfied:

(A) there shall have occurred "Plant Acceptance" (as that term shall be defined in the operative construction ~~of the Cogeneration Plant~~) of the Cogeneration Plant so as to enable Tenant to commence commercial cogenerated operation of its district heating and cooling project;

(B) Tenant shall have commenced the delivery and sale of cogenerated heating and/or cooling service under the Master Energy Agreement in a quantity sufficient to satisfy the minimum requirements for "a Qualified Facility" under ~~federal~~ ~~energy regulatory commission rules and regulations~~; and

(C) the "Commercial Operation Date" (as that term is defined in the ~~Parallel Generation Agreement~~) shall have occurred; i.e., Tenant shall have commenced the delivery and sale of electric energy to LILCO pursuant to the terms of the Parallel Generation Agreement; or

(ii) the expiration of 36 months from the Construction Term Commencement Date; or

(iii) the Cogeneration Plant has been in operation at a 90 percent capacity factor with integrated operations with the Nassau Coliseum, the Nassau Community College, the Nassau County Medical Center and the Marriott Hotel for a period of thirty (30) consecutive days in a combined cycle mode (gas and steam turbines operating together).

If the CPI in effect for the month immediately preceding the third anniversary of the Effective Date and each third anniversary of such date thereafter (i.e., the sixth, ninth, etc. anniversary of the Effective Date) (the "Adjustment Date"), is greater than the CPI in effect for the month immediately

preceding the date which is three years prior to the applicable Adjustment Date (the "Applicable Standard Date"), then the aggregate Base Rent payable hereunder shall be increased as of each such Adjustment Date by an amount equal to the product obtained by multiplying the annual rate of Base Rent in effect on the day preceding such Adjustment Date (without giving effect to any abatement of Base Rent) by the percentage by which the CPI in effect for the month immediately preceding such Adjustment Date exceeds the CPI in effect for the month immediately preceding such Applicable Standard Date. The term "CPI" shall mean as of any particular date the Consumer Price Index for All Urban Consumers for New York, N.Y. -- Northeastern N.J. published by the Bureau of Labor Statistics of the U.S. Department of Labor with a 1967 = 100 base; provided, however, that (a) if such index (or any index substituted therefor as hereinafter provided) shall cease to be published, then for the purposes of this paragraph there shall be substituted for such index such other index of a similar kind published by a governmental or other nonpartisan organization as may be reasonably selected by Landlord, (b) if there is any change in the computation of said index or of any such substituted index (including a change in the base year or included items), then for the purposes of this paragraph such index as so changed shall be substituted for the index in effect prior thereto, and (c) if the base period or date for any such substituted index is prior to an Adjustment Date but on or subsequent to the immediately preceding Applicable Standard Date, then such substituted index shall for all purposes of any computation under this paragraph with respect to such Adjustment Date be recomputed to arrive at the substituted index for the December immediately preceding such Applicable Standard Date and such other adjustments shall be made as shall be required, if any, to carry out the intent of this paragraph, all in such manner as shall be reasonably determined by Landlord.

Section 4.02 NO ABATEMENT: Landlord and Tenant intend that Rent shall be paid to Landlord net, without notice or demand, and without abatement, deduction or set off of any amount, except that Tenant may set off against any rental payment an amount not to exceed any amount due Tenant under the Master Energy Agreement by Landlord if and to the extent such payments are 30 days past due. All costs, expenses and obligations relating to the Premises and the Cogeneration Plant shall be paid by Tenant, except as otherwise expressly provided in this Lease.

Section 4.03 ADDITIONAL RENT

All sums which may become payable to Landlord by Tenant as in this Lease provided, and all other charges and expenses which Tenant agrees to pay pursuant to this Lease, shall be deemed additional rent hereunder and payable as set forth herein, and Landlord shall have (in addition to any other right or remedy it may have) the same rights and remedies in the event of the

nonpayment of any such sums by Tenant as in the case of default by Tenant in the payment of Base Rent.

ARTICLE 5 - TAXES

Section 5.01 REAL ESTATE TAXES AND UTILITY EXPENSES: Throughout the Term, Tenant shall pay and discharge punctually, as and when the same shall become due and payable, all gross receipts taxes, real estate taxes (special and general), assessments, water rents, rates and charges, sewer rents and other governmental impositions and charges of every kind and nature whatsoever, extraordinary as well as ordinary (hereinafter collectively referred to as "Taxes"), and each and every installment thereof which shall or may during the Term be charged, levied, assessed, imposed, become due and payable, or liens upon or for or with respect to Tenant's Facility, or any part thereof the appurtenances or equipment owned by Tenant or Landlord therein or any part thereof, together with all interests and penalties thereon, under or by virtue of all present or future laws, ordinances, requirements, orders, directives, rules or regulations of all governmental authorities having jurisdiction or pursuant to any contractual agreement and including any payments made in lieu of such taxes (all of which shall also be included in the word "Taxes" as heretofore defined). Tenant shall pay to Landlord during the Principal Term, as additional Base Rent, within thirty (30) days following each anniversary of the Principal Term Commencement Date, an amount, if any, equal to \$100,000 less all Taxes paid (after reduction for any refunds received) during the preceding twelve (12)-month period. If at any time after the date hereof the methods of taxation prevailing at the date hereof shall be altered so that in lieu of, as an addition to or as a substitute for the whole or any part of the taxes and assessments now assessed, levied or imposed upon all or any part of Tenant's Facility, there shall be assessed, levied or imposed (a) a tax, assessment, levy, imposition or charge measured by or based in whole or in part upon all or any part of Tenant's Facility or the value thereof and imposed upon Landlord, or (b) a license fee measured by the rents, or (c) a "value added", inheritance, estate or other tax, assessment, levy, imposition, charge or license fee however described or imposed, then all such taxes, assessments, levies, impositions, charges or license fees, or the part thereof so measured or based shall be deemed to be Taxes. Tenant will hold Landlord harmless from and against liability for any and all sewer rents and charges for water, steam, heat, hot water, gas, electricity, light and power, and other service(s) furnished to Tenant's Facility during the Term (hereinafter referred to as "Utility Expenses"). Nothing herein contained shall require or be construed to require Tenant to pay any inheritance, estate, succession, transfer, gift, franchise, income, profit or excess profit, capital levy, corporate or

incorporated business tax or other similar tax that is or may be imposed upon Landlord, its successors or assigns, or upon the rent payable to Landlord.

Section 5.02 PAYMENT OF TAXES: Tenant shall be deemed to have complied with the covenants of Section 5.01 if payment of such Taxes shall have been made either within any period allowed by law or by the governmental authority imposing the same without penalty or interest or before the same shall become a lien upon Tenant's Facility or any part thereof, and upon the written request of Landlord, Tenant shall exhibit to Landlord within 30 days after the delivery of that request satisfactory evidence of such payments.

Section 5.03 INSTALLMENTS: To the extent permitted by law, Tenant shall have the right to apply for the conversion of any assessment for local improvements to be payable in annual installments and, upon such conversion, Tenant shall pay and discharge punctually such installments as they shall become due and payable during the Term. Landlord agrees to permit the application for the foregoing conversion to be filed in Landlord's name, if necessary, and shall execute any and all documents requested by Tenant to accomplish the foregoing.

Section 5.04 RECEIPT OF PAYMENT: The certificate, advice or bill of the appropriate official, designated by law to make or issue the same or to receive payment of any Taxes or nonpayment thereof, shall be prima facie evidence that such Taxes are due and unpaid at the time of the making or issuance of such certificate, advice or bill.

Section 5.05 APPORTIONMENT OF TAXES: All such Taxes, including assessments which have been converted into installments as hereinabove set forth, which shall become payable during the tax year in which the Term terminates, shall be apportioned pro rata between Landlord and Tenant in accordance with the respective portions of such year during which the Term shall be in effect.

Section 5.06 TAX CONTEST: Tenant, at its own cost and expense, shall have the right to contest, after notice to Landlord, the validity or amount of any Tax or the assessed valuation on which any Tax may be based, by appropriate proceedings diligently conducted in good faith but only after payment of such Tax, unless such payment would operate as a bar to such contest, in which event Tenant may defer payment of such Tax during the pendency of such proceedings only if (a) Tenant shall have furnished to Landlord the written consent to such deferral of each Leasehold Mortgagee whose consent thereto may be required, (b) no civil or criminal liability would accrue to Landlord by reason of such deferral and (c) such deferral would not permit Tenant's Facility or any portion thereof with a lien

Landlord

thereon created by such Tax, to be sold by governmental authority for the non-payment thereof.

Section 5.07 REFUND OF TAXES: Landlord covenants and agrees that if there shall be any refunds or rebates on account of the Taxes paid by Tenant, such refund or rebate shall belong to Tenant (subject to any rights thereto as may be asserted by the subtenants of Tenant or by Landlord as "Customer" under the Master Energy Agreement). Any refunds received by Landlord shall be deemed trust funds and as such are to be received by Landlord in trust and paid to Tenant forthwith. Upon the request of Tenant, but without cost to Landlord, and solely in its capacity as Landlord, and not in any governmental capacity will (i) sign any receipts which may be necessary to secure the payment of any such refund or rebate, and will pay over to Tenant such refund or rebate as received by Landlord and (ii) make application in its own name (if legally required) to join in Tenant's application (if legally required) for separate tax assessments for such portions of the Demised Land and the improvements thereon as Tenant shall, at any time and from time to time, designate.

Section 5.08 COOPERATION ON TAX MATTERS: Subject to Section 5.09 below, Landlord, solely in its capacity as Landlord, and Tenant shall each cooperate with the other in obtaining and retaining any tax abatement and/or exemption for which Tenant's Facility may be eligible. Each of the parties will execute, file and provide copies to the other of any and all documents and instruments reasonably necessary to obtain and retain such abatement, provided that Tenant shall reimburse Landlord for any reasonable expense that Landlord may incur in connection therewith. Tenant shall deliver to Landlord copies of all preliminary and final certificates of tax abatement for Tenant's Facility as and when Tenant receives such certificates.

Section 5.09 TAX EXEMPTION: Notwithstanding anything contained herein to the contrary, Tenant shall create no occupancy or sublease or sale of the Premises or lease so as to create a real estate ad valorem tax exempt status of the Premises beyond that which is provided for in Section 485(b) of the Real Property Tax Law of the State of New York. Nothing herein contained shall preclude Tenant from applying for a tax exemption under Section 485(b) of the Real Property Tax Law and Landlord, at no cost or expense to Landlord, and solely in its capacity as Landlord, shall cooperate with Tenant in the processing of such application, including signing any necessary instruments in connection therewith. Nothing herein contained shall preclude Tenant from seeking exemption from any other tax, including, without limitation any franchise tax on underground wire or cable or any mortgage recording or transfer tax. Tenant shall not contest the power of the County of Nassau or other appropriate governmental authority to levy ad valorem real property taxes against the Tenant's Facility or any part thereof, which attack

or contest is premised upon the assertion that title to the Premises or any reversionary interest in Tenant's Facility is in, or may revert to, Landlord. Tenant may contest the power of the County of Nassau to levy ad valorem real property taxes against the Tenant's Facility or any part thereof for any other reason, including the assertion that Tenant's Facility or any part thereof does not constitute real property.

ARTICLE 6 - INSURANCE AND INDEMNITIES

Section 6.01 Insurance Coverage (A) Commencing on the Effective Date, Tenant shall provide, or cause to be provided, and thereafter shall keep in full force and effect, or cause to be kept in full force and effect with respect to the Premises, until the Commencement of Construction as hereinafter defined, insurance coverage of the types and in the minimum limits set forth in subsections (i) and (ii) of this Section 6.01. Commencing on the Commencement of Construction, Tenant shall provide or cause to be provided, and thereafter shall keep or cause to be kept in full force and effect, until completion of the construction, all of the following:

(i) "all events" commercial general liability insurance naming Tenant as insured with Landlord and each Leasehold Mortgagee as additional insureds, under a standard Leasehold Mortgagee clause, such insurance to insure against liability for bodily injury and death and for property damage in such amount as may from time to time be reasonably required by Landlord (which shall not be less than Twenty-five Million Dollars (\$25,000,000) , such insurance to include operations-premises liability, contractor's protective liability on the operations of all subcontractors, completed operations after completion of construction, broad form contractual liability (designating the indemnity provisions of any construction agreements and this Lease), a broad form commercial general liability endorsement deleting all exclusions pertaining to contractual coverage and, if the contractor is undertaking foundation, excavation or demolition work, and endorsement that such operations are covered and that the "XCU Exclusions" have been deleted:

(ii) automobile liability insurance for all owned, non-owned, leased, rented and/or hired vehicles insuring against an amount not less than Twenty-five Million Dollars (\$25,000,000) combined single limit, such insurance to name Tenant (any contractor if carried by a contractor) as named insured and as additional insureds, Landlord and each Leasehold Mortgagee under a standard mortgagee clause;

(iii) worker's compensation insurance providing statutory New York State benefits for all persons employed in connection with the construction of Tenant's Facility; including, as a minimum, Employer's Liability limits of \$100,00/\$100,000/\$500,000, with coverage to be included in the underlying schedule of any umbrella or following form excess policy; and

(iv) all-risk builder's risk insurance written on a one-hundred percent (100%) of Completed Value (non-reporting) basis with limits as provided in Section 6.01(B)(i), naming, to the extent of their respective insurable interest in the Premises, Tenant as named insured, and, as additional insureds, Landlord and each Leasehold Mortgagee under a standard mortgage clause. In addition, such insurance (A) shall contain an acknowledgement by the insurance company that its rights of subrogation have been waived with respect to all of the insureds named in the policy and an endorsement stating that "permission is granted to complete and occupy", (B) if any storage location situated off the Premises in used, shall include coverage for the full insurable value, all materials and equipment on or about any such storage location intended for use with respect to the Premises.

(B) Tenant shall, at all times after completion of construction and thereafter throughout the Term:

(i) keep or cause to be kept the Buildings insured under an "All Risk of Physical Loss" form of policy, including, without limitation, coverage for loss or damage by water, flood, subsidence and earthquake (excluding, at Tenant's option, from such coverage normal settling only) and, when and to the extent obtainable from the United States government or any agency thereof, at reasonable expense, war risks; such insurance to be written with a deductible of not more than \$10,000.00 on an "Agreed Amount" basis, with full installed replacement cost, with the replacement value of the Tenant's Facility to be determined from time to time, but not less frequently than required by the insurer and in any event at least once every three (3) years, it being agreed that no omission on the part of Landlord to request any such determination shall relieve Tenant of its obligation to determine the replacement value thereof (in the absence of such valuation, the FM (Factory Mutual) or IRI (Industrial Risk Insurers) Indices will be applied;

(ii) provide and keep in force commercial general liability insurance against liability for bodily injury, death and property damage, it being agreed that such insurance shall (A) be in an amount as may from time to time be reasonably required by landlord, but not less than Twenty-five Million Dollars (\$25,000,000) combined single limit inclusive of primary, umbrella and following form excess policies for liability for bodily injury, death and property damage, (B) include the

Premises and all streets, alleys and sidewalks adjoining or appurtenant to the Premises, (C) provide blanket automatic contractual insurance covering the indemnification obligation assumed by Tenant hereunder and including bodily injury to employees of others assumed by Tenant under contract, which insurance shall cover all costs, expenses and/or liability (including, without limitation, attorneys' fees and disbursements) arising out of or based upon any and all claims, accidents, injuries and damages mentioned in Section 6.11 and required to be insured against hereunder, and (D) also provide the following protection:

(1) Broad form liability endorsement, including (a) blanket contractual liability, (b) personal injury liability, (c) host liquor liability, (d) fire legal liability on real property, (e) broad form property damage liability, including completed operations;

(2) Products and completed operations;

(3) Independent contractors;

(4) Blanket automatic contractual liability to include bodily injury to employees of others assumed by Tenant;

(5) Sprinkler insurance, to the extent required;

(6) Business interruption insurance; and

(7) Water damage legal liability shall not be excluded.

(iii) provided and keep or cause to be kept in force workers' compensation insurance providing statutory New York State benefits for all persons employed by Tenant at or in connection with the Premises;

(iv) provide and keep or cause to be kept in force on an "Agreed Amount" basis rent insurance on an "All Risk of Physical Loss" basis in an amount not less than the aggregate requirements for the period of 12 months following the occurrence of the insured casualty for (i) Base Rent, (ii) all impositions, and (iii) premiums on the insurance required to be carried pursuant to this Article;

(v) if a sprinkler system shall be located in any portion of Tenant's Facility, provide and keep in force sprinkler leakage insurance in an amount approved by Landlord, which approval shall not be unreasonably withheld (the foregoing to be required only if excluded from the insurance required to be provided and kept in force pursuant to Section 6.01(B)(i);

(vi) to the extent applicable, provide and keep or cause to be kept in force boiler and machinery insurance in an amount as may from time to time be reasonably determined by Landlord but not less than ten million dollars (\$10,000,000) per accident on a combined basis covering direct property loss and loss of income and covering all steam, mechanical and electrical equipment, including, without limitation, all boilers, unfired pressure vessels, air-conditioning equipment, elevators, piping and wiring;

(vii) provide and keep or cause to be kept in force automobile liability insurance for all owned, non-owned, leased, rented and/or hired vehicles insuring against liability of bodily injury and death and for property damage in an amount as may from time to time be reasonably determined by Landlord but not less than five million dollars (\$5,000,000) combined single limit; and

(viii) provide and keep or cause to be kept in force such other insurance in such amounts as may from time to time be reasonably required by Landlord against such other insurable hazards as at the time are commonly insured against by prudent owners of like buildings and improvements.

(C) Whenever Tenant shall be required to carry insurance under this Section 6.01, it is the parties' intention that Tenant shall not be required to carry insurance in any greater amounts or against any additional hazards than at the time are commonly carried by prudent owners of like buildings and improvements. Accordingly, Landlord or Tenant may require that the coverage limits be reviewed after intervals of five years to determine whether the limits are more or less than customary limits for property of similar size, use and location. If the coverage limits are more or less than the customary limits, the coverage limits shall thereafter be adjusted to the customary limits. Any dispute as to the amount of additional insurance to be carried, or the additional kinds of hazards to be insured against, shall be resolved by arbitration in the manner provided in this Lease, provided that Tenant shall carry all additional insurance required by the Landlord pending resolution of that arbitration.

(D) No construction shall be commenced until Tenant shall have delivered to Landlord the original policies of insurance or duplicate originals or certificates thereof together with copies of such insurance policies, as required by this Section 6.01.

(E) In addition to the insurance required pursuant to this Section 6.01, Tenant shall, prior to Commencement of Construction, obtain, or cause to be obtained, and furnish to Landlord, (i) payment and performance bonds in forms and by sureties reasonably satisfactory to Landlord, naming the contractor as obligor and Landlord, Tenant and each Leasehold Mortgagee as co-obligees, each in a penal sum equal to the amount

of the construction contract for Tenant's Facilities (or if there shall be no construction contractor, Landlord may require payment and performance bonds from each subcontractor designated by Landlord, each in a penal sum equal to the amount of such subcontract; provided however, no such bonds shall be required for subcontractors whose subcontract is in an amount less than Two Hundred Fifty Thousand (\$250,000) Dollars and is not with respect to any of the following: demolition, foundation, excavation, steel, concrete, plumbing, electrical, carpentry and dry wall, heating, ventilating, air conditioning and elevators) or (ii) other security reasonably satisfactory to Landlord in its sole discretion, including, without limitation, a letter of credit, provided the amount, form and issuer shall have been reasonably approved by Landlord. Landlord shall not require a payment and performance bond with respect to construction services to be performed by Ebasco Constructors Inc. ("Ebasco"), but shall accept as security instead the guaranty to Tenant of Ebasco's parent, ENSERCH Corporation. Tenant shall, upon written demand from Landlord, enforce payment and performance under the guaranty if that guaranty shall become operative according to its terms and, if Tenant fails promptly to enforce that guaranty, Landlord may take any action to enforce payment and performance under the guaranty in Tenant's name.

(F) For the purposes of this Section 6.01, "Commencement of Construction" shall mean the date upon which on-site construction of Tenant's Facility shall commence, which commencement shall, in any event, be deemed to have occurred upon the occurrence of any excavation or pile driving but not upon the occurrence of test borings, test pilings, surveys, contractor's mobilization and similar pre-construction activities.

Section 6.02 Policy Provisions All insurance provided for under this Lease shall be effected under valid enforceable policies issued by insurers of recognized responsibility and reasonably acceptable to Landlord. Upon the execution of this Lease the certificates of insurance or original policies procured by Tenant pursuant to Section 6.01 shall be delivered to Landlord. At least 30 days prior to the expiration date of any policy the certificates of insurance for the renewal policy for such insurance shall be delivered by Tenant to Landlord, together with satisfactory evidence of payment of the premium thereon. To the extent reasonably obtainable and whether or not an additional premium shall be payable in connection therewith, all policies referred to in Section 6.01 shall contain agreements by the insurers that (a) any loss shall be payable to Landlord and to the holder of any Leasehold Mortgage to whom loss may be payable as hereinafter provided, notwithstanding any act of negligence or violation of any warranties, declarations or conditions of Tenant or any other named insured which might otherwise result in forfeiture of said insurance, (b) such policies shall not be cancelled except upon 30 days' prior written notice to each named

insured and loss payee, in the case of Landlord addressed c/o Bureau of Real Estate, Insurance and Workers' Compensation, 1550 Franklin Avenue, Mineola, New York 11501, and (c) the coverage afforded thereby shall not be affected by the performance of any work in or about Tenant's Facility, as well as (x) a waiver by the insurer of any claim for insurance premiums against Landlord and (y) a waiver of subrogation by the insurer of any right to recover the amount of any loss resulting from the negligence of Tenant, Landlord, their agents, employees or licensees.

Section 6.03 Rental Value Policy So long as there shall be a Leasehold Mortgagee or Institutional Lender subtenant, the rental value policy may name such Leasehold Mortgagee or Institutional Lender subtenant as the loss payee thereunder or if there shall be no Leasehold Mortgagee or Institutional Lender subtenant then there shall be named as the loss payee thereunder a Qualified Depository designated by Tenant in a notice given to Landlord. Upon receipt of the same, the Leasehold Mortgagee or Institutional Lender subtenant or the Qualified Depository designated by Tenant, as the case may be, shall apply the proceeds of such rental value insurance paid to it first to the payment of Base Rent and Additional Rent and then to the payment of impositions and insurance premiums becoming due during restoration of the Tenant's Facility only to the extent required under this Lease, and any balance of such proceeds shall be paid to Tenant, subject to the rights of any Leasehold Mortgagee or subtenant to apply the same, as may be required under any mortgage.

Section 6.04 Insureds Except as provided in Section 6.03, all policies of insurance required herein shall name Landlord and Tenant as the insured as their respective interests may appear. Subject to the provisions and limitations of this Section 6.01, all such policies of insurance shall also provide, if applicable, for any loss to be payable to the holder of any Leasehold Mortgage, as the respective interests may appear, pursuant to a standard mortgagee clause or endorsement. The loss, if any, under the policies referred to in Section 6.01, shall be adjusted with the insurance companies by Tenant except that in the event that there shall be a Leasehold Mortgagee, no loss shall be adjusted without the prior approval of such Leasehold Mortgagee, if required under the Leasehold Mortgage.

Section 6.05 Loss The loss, if any, under all policies referred to in Section 6.01 shall be payable (a) so long as there shall be any Leasehold Mortgagee or Institutional Lender subtenant, to such Leasehold Mortgagee or Institutional Lender subtenant, unless the Leasehold Mortgagee or Institutional Lender subtenant shall not require such payment, or (b) if there shall be no Leasehold Mortgagee or Institutional Lender subtenant, or if there be a Leasehold Mortgagee or Institutional Lender subtenant, and it shall not require the proceeds to be paid

directly to it, then, in the case of any casualty resulting in a loss payment not exceeding 25% of the full insurable value of the Tenant Facility, to Tenant, and in the case of any casualty resulting in a loss payment in excess of 25% of the full insurable value of Tenant's Facility, to a Qualified Depositary to be designated by Tenant in a notice given to the insurance companies and to Landlord promptly following the occurrence of the casualty. All such policies shall expressly provide that loss thereunder shall be adjusted and paid as provided in Section 6.04 and this Section.

r Section 6.06 Blanket Insurance Nothing in this Article shall prevent Tenant from taking out insurance of the kind and in the amounts provided for under Section 6.01 under a blanket insurance policy of policies which can cover other properties owner or operated by Tenant as well as the Tenant's Facility; provided, however, that any such policy of insurance provided for under Section 6.01 (A) shall specify therein, or Tenant shall furnish Landlord and the holder of any Leasehold Mortgage with a written statement from the insurers under such policies specifying, the amount of the total insurance allocated to the Premises, which amount shall not be less than the amount required by said Section 6.01 to be carried, and (b) shall not contain any clause which would result in the insured thereunder being required to carry insurance with respect to the property covered thereby in an amount equal to a minimum specific percentage of the full insurable value of such property in order to prevent the insured therein named from becoming a co-insurer of any loss with the insurer under such policy. Tenant shall furnish to Landlord and to the holder of any Leasehold Mortgage, within 10 days after the filing thereof with any insurance rate-making body, copies of the schedule or make up of all property covered by every such policy of blanket insurance.

Section 6.07 Loss Deductible Clauses All insurance provided for under this Lease may contain loss deductible clauses in such maximum amounts as Landlord shall approve, which approval shall not be unreasonably withheld, but in no event greater than the amount which the Leasehold Mortgagee or Institutional Lender subtenant, if there be one, shall permit, which amount shall be binding as a maximum deductible upon the Landlord and Tenant. In the event of a dispute between Landlord and Tenant as to the amount which may be deductible under a policy, such dispute shall be determined by arbitration in the manner provided in this Lease.

Section 6.08 Occurrence Basis All liability insurance required to be provided and kept in force by Tenant under this Lease shall be written on an "Occurrence" basis, provided, however, that if (i) a basis other than such "Occurrence" basis shall be adopted throughout the insurance industry and (ii) such other basis shall be accepted by most prudent owners of like

buildings and improvements, then Tenant may provide and keep in force liability insurance written on such other basis satisfactory to Landlord.

Section 6.09 Intentionally omitted.

Section 6.10 Destruction and Restoration: In the event of damage or destruction to Tenant's Facility by reason of any casualty, Tenant shall, unless that casualty requires replacement of both the gas and steam turbines of the Cogeneration Plant (i) if the destruction results from a risk that is not an "uninsured" risk set forth in ~~Exhibit I~~ hereof, Tenant shall be obligated, irrespective of the availability of insurance proceeds, to promptly restore, repair, replace or rebuild such improvements as nearly as possible to the condition, quality and class in which the same existed immediately prior to such damage or destruction, modified or altered to the extent of such changes, modifications, alterations or additions as Tenant shall reasonably deem appropriate in connection with such repair and restoration, provided the restoration is in accordance with ~~the~~ the requirements of law and with the objectives set forth in the applicable Environmental Impact Statement and Statement of Findings by the Nassau County Board of Supervisors or (ii) if the destruction results from a risk that is an "uninsured" risk set forth in ~~Exhibit I~~ hereof, Tenant may demolish the Cogeneration Plant and remove all debris at Tenant's expense, and shall be obligated, irrespective of the availability of insurance proceeds, to restore only the C.U.P., the Equipment and the Medical Plant and the Existing Pipes to their condition, quality and class in which the same existed immediately prior to such damage or destruction as independently operative plants and shall restore any necessary electrical feeder supply altered by Tenant in connection with the construction of the Cogeneration Plant. Following the commencement of such restoration, repair or replacement, Tenant will prosecute the completion of the same with reasonable diligence, taking into account availability of materials, labor and other site and work conditions. In the event that the destruction or damage, whether or not from an "uninsured" risk, shall require the replacement of both the steam and gas turbines of the Cogeneration Plant, Tenant may elect, in lieu of such restoration and reconstruction, to demolish such improvements and remove all debris at Tenant's expense, provided that any insurance proceeds up to an amount required to rebuild the C.U.P., the Medical Plant, the Equipment and/or the Existing Pipes, whichever is affected by the casualty, or a facility substantially similar in capacity to those affected facilities with the reasonable approval of Landlord, shall be used for that purpose or, at Landlord's option, shall be paid to Landlord, with the balance paid to Tenant, subject to such assurances or guarantees as Landlord shall reasonably require. Tenant shall use those insurance proceeds to the extent necessary to operate the restored C.U.P. and Medical Plant and to supply

the Thermal Energy requirements of "Customer Buildings" as defined in the Master Energy Agreement and the requirements of any other Customer facilities serviced under the Master Energy Agreement at the rates set forth in the Master Energy Agreement for the balance of the Term thereof, and shall continue to pay Rent under this Lease.

Section 6.11 Indemnification of Landlord: Tenant will protect, indemnify and hold Landlord harmless from and against all liabilities, obligations, damages, penalties, claims, causes of action, costs, charges and expenses, including reasonable attorneys' fees and expenses, which may be imposed upon, incurred by or asserted against Landlord (including any consequential loss or damage arising from Tenant's failure to deliver Thermal Energy required under agreements to deliver Thermal Energy in effect as of the date hereof (excluding the Master Energy Agreement) between Landlord and "Base Customers" as that term is defined in the Master Energy Agreement, without implying that any right to such consequential loss or damage exists under those agreements), by reason of (a) any occurrence, injury or damage to any person or property occurring in or on Tenant's Facility during the Term (or prior to the Term, to the extent Tenant was obligated to indemnify Landlord therefor prior to the termination of the Service Contract) or arising from Tenant's failure to deliver Thermal Energy as herein or in the Master Energy Agreement provided; (b) any use or non-use or condition of Tenant's Facility or any portion thereof during the term; (c) the conduct or management of Tenant's Facility or any operations thereat; and (d) any claim for the performance of labor or the furnishing of materials or other property in Tenant's Facility or any part thereof after the date hereof, other than any labor or materials to be supplied at Landlord's expense, except, in each case, and solely to the extent in excess of limits under Tenant's insurance policies, for any claims resulting from the negligence or willful acts of Landlord and/or Landlord's officers, agents, servants, employees and/or contractors. If any action or proceeding is brought against Landlord by reason of any such occurrence, Tenant, upon Landlord's request or at its own election made by notice to Landlord, will, at Tenant's expense, resist and defend such action or proceeding, or cause the same to be resisted and defended, either by counsel designated by Tenant or, where such occurrence is covered by liability insurance, by counsel designated by the insurer.

Section 6.12 Indemnification of Tenant: Notwithstanding any other provision herein to the contrary, solely to the extent in excess of limits under Tenant's insurance policies, Landlord will protect, indemnify and hold Tenant harmless from and against all liabilities, obligations, damages, penalties, claims, causes of action, costs, charges and expenses, including reasonable attorneys' fees and expenses, which may be imposed upon, incurred by or asserted against Tenant by reason of

any injury or damage to any person or property having occurred in or on the Premises prior to the Construction Term Commencement Date (except to the extent that Tenant is responsible for such injury or damage pursuant to the terms of the Service Contract, or the license agreement granted by Nassau Community College for the construction laydown area, in which event Tenant will indemnify landlord under Section 6.11), and, solely to the extent in excess of limits under Tenant's insurance policies, from and after the Construction Term Commencement Date with respect to any claims against Tenant resulting from the negligence or willful acts of Landlord or Landlord's officers, agents, servants, employees or contractors.

Section 6.13 Consequential Damages: It is specifically agreed and understood that except as set forth in Section 6.11, neither party will be responsible to the other in contract or in tort (including negligence), under any warranty or otherwise, for any special, incidental or consequential loss or damage (including lost profits or opportunity costs) whatsoever arising out of this Lease or anything done in connection therewith, including but not limited to: (i) Tenant's consequential loss or damage arising out of failure to deliver Thermal Energy or (ii) consequential loss or damage arising out of the construction, engineering, repair, supervision, inspection, testing, protection, operation, maintenance, replacement, use or ownership of the C.U.P., the Equipment, the Cogeneration Plant or the Additional Pipes or the Existing Pipes or any improvements, fixtures or personalty located on the Premises.

ARTICLE 7 - CONSTRUCTION, ALTERATIONS AND IMPROVEMENTS

Section 7.01 THE COGENERATION PLANT: Attached to this Lease as Exhibit F is a description of a cogeneration power facility to be constructed by Tenant adjacent to the C.U.P. on the Construction Term Land described on Exhibit A-1 (the "Cogeneration Plant"). Tenant, at its cost and expense, shall construct the Cogeneration Plant substantially in accordance with such description, requirements of law and with the objectives set forth in the applicable Environmental Impact Statement and Statement of Findings by the Nassau County Board of Supervisors, as the same may be amended from time to time by Tenant in its sole discretion, provided any such amendment is in compliance with applicable laws, rules and regulations and does not adversely affect the structural integrity of the C.U.P. or the Medical Plant or their existing operational capabilities, and further provided that such amendment will not materially impair the ability of Tenant's Facility to perform as provided in Exhibit F and to enable Tenant to meet its obligations under this

Lease and the Master Energy Agreement. For purposes of this Lease, the "Cogeneration Plant" shall include any and all fixtures, equipment and machinery of every kind and nature affixed or attached to such facility or hereafter used or procured for use in connection with the operation or use thereof, and the appurtenances thereto, but excluding therefrom articles of minor or insubstantial personal property, tools and furniture. Landlord and its agents and representatives shall have the right to inspect the Cogeneration Plant from time to time during its construction solely for the purpose of establishing that it is being constructed in accordance with this Section 7.01 and in accordance with applicable laws, rules and regulations. Landlord, solely in its capacity as landlord, may inspect the Premises from time to time upon reasonable notice to Tenant for the purpose of ensuring Tenant's compliance with this Section 7.01. Landlord may, in addition to any other available remedy, enjoin Tenant from continuing its construction of the Cogeneration Plant if Tenant is not in material compliance with this Section 7.01 and has failed to cure that non-compliance within 30 days after receiving notice of non-compliance from Landlord. Tenant hereby agrees that Landlord has no other adequate remedy at law. Tenant shall obtain and maintain all permits necessary to permit the lawful use and operation of Tenant's Facility in compliance with all applicable federal, state, municipal, building, environmental, health and safety laws and regulations.

Section 7.02 ADDITIONAL PIPES and ELECTRICAL

EQUIPMENT: Tenant shall have the right, subject to applicable zoning and building laws, rules and regulations, and subject to obtaining any necessary third party consents, at its cost and expense, to (i) construct and lay such additional pipes (the "Additional Pipes") under the Demised Land and under mutually agreed adjoining parcels of land from the C.U.P. and from the Cogeneration Plant and/or to the Existing Pipes as are necessary, in Tenant's judgment, to provide service to users (provided that pipes extending through any building located on land owned by or leased from Landlord, other than the Demised Land, shall be limited in size to a maximum fourteen (14) inch inside diameter, absent prior approval from the authorized persons or entity using that building) and (ii) construct and install such electrical equipment, including transmission lines and equipment, required to deliver electrical energy from Tenant's Facility (the "Electrical Equipment") to LILCO pursuant to a "Parallel Cogeneration Agreement" between LILCO and Tenant dated December 28, 1988, as amended, restated or replaced from time to time. Landlord shall grant Tenant such easement in the form attached as Exhibit G and an easement in a form to be mutually agreed to reflecting the location of the easement as described in Exhibit H.

with respect to property owned by Landlord for the construction and location of the Additional Pipes and Electrical Equipment, for the construction and location of electric, gas and other utilities to serve the Tenant's Facility and for any other purpose consistent with Section 2.03(a). If Tenant is prevented from using the easements granted to it by Landlord for the purposes set forth therein, or if any law, rule or regulation prohibits the granting of such easements without legislative authorization or otherwise, Tenant shall be authorized to use the land within the easements for such purposes as Landlord's agent or in any other mutually satisfactory, reasonable and lawful manner or capacity that would effect the purposes of the parties under this Agreement. Landlord shall have no liability to Tenant for any additional costs or delays which Tenant may suffer or incur by reason of any such prohibition, stay or other limitation on Tenant's use of such easements.

Section 7.03 ALTERATIONS AND IMPROVEMENTS: After the construction of Tenant's Facility, Tenant shall have the right, subject to applicable zoning and building laws, rules and regulations and at its cost and expense, and subject to Landlord's approval, not to be unreasonably withheld (provided that Landlord's approval (solely in its capacity as Landlord), shall not be required for casualty restoration for changes which are consistent with ~~Section 6.10~~ and which will allow Tenant's Facility following restoration to meet Tenant's obligations under this Lease and the ~~Master Energy Agreement~~, to make alterations to the improvements now or hereafter situated on the Demised Land, the Existing Pipes, Additional Pipes, utility lines, any electrical interconnect to electrical users and to construct additional buildings or improvements on the Demised Land consistent with the operation of Tenant's Facility (including the C.U.P., the Existing Pipes, the Equipment and the Cogeneration Plant) and consistent with the uses permitted under Section 2.03(a) of this Lease, and to demolish, substitute or relocate any improvement (other than the C.U.P. and the Medical Plant) from time to time existing on the Demised Land, provided that, subject to Section 6.10, Tenant replaces the demolished, substituted or relocated improvement with an operating facility of substantially equal or greater capacity and there shall be no interruption of service to Landlord as "Customer" under the ~~Master Energy Agreement~~ other than as permitted therein.

ARTICLE 8 - REPAIRS AND MAINTENANCE

Section 8.01 REPAIRS, MAINTENANCE, ETC.:

(A) During the Construction Term, Tenant will operate and maintain the C.U.P., the Existing Pipes, and the Equipment in accordance with Section 3.03 hereof. At all times during the Principal Term, Tenant, at its sole cost and expense, shall perform all maintenance and repairs (ordinary and extraordinary)

on and to the C.U.P., the Existing Pipes, the Equipment and the Medical Plant, whether structural, nonstructural, interior, exterior or otherwise, and shall maintain and repair Tenant's Facility in accordance with manufacturer's recommendations, ordinary wear and tear excepted, and keep Tenant's Facility clean and free of rubbish and all driveways, sidewalks and parking areas free of ice and snow. Tenant shall test, monitor and maintain the condition of any storage tanks replaced by Landlord pursuant to this Agreement. Tenant shall arrange for the removal of removable oil contained in Landlord's existing storage tanks serving the C.U.P. which shall, at Landlord's option, be relocated at Tenant's expense to other facilities of Landlord in Nassau County or sold at fair market value with the net proceeds payable to Landlord.

(B) The Tenant shall establish a preventive maintenance program ("PM Program") with respect to the Medical Plant, the Medical Plant Equipment and the Existing Pipes, which shall be submitted to Landlord for its approval, not to be unreasonably withheld or delayed, on or prior to 180 days after the Effective Date. Landlord shall have an opportunity to promptly comment upon and suggest revisions to the PM Program until such time as the PM Program meets its reasonable approval. The approved PM Program shall (i) incorporate appropriate maintenance schedules indicated by the manufacturers of the Equipment in the Medical Plant and the Existing Pipes, which schedules shall, to the extent in Landlord's possession, be supplied to Tenant by Landlord (ii) take cognizance of the maintenance previously performed on the Medical Plant, the Medical Plant Equipment and the Existing Pipes by or for the benefit of Landlord (the records of which to the extent in its possession shall be supplied to Tenant by Landlord), (iii) identify the party responsible for each piece of equipment, pipe, wire or device of any kind within the leased boundaries of the Medical Plant, (iv) establish certification and/or qualification standards for company personnel who will test meter(s) pursuant to ~~Section 2.3 of the Master Energy Agreement~~, (v) provide for concurrent maintenance of written preventive maintenance logbooks or records, which shall be subject to joint review of Landlord and Tenant and (vi) establish detailed standards, procedures and staffing qualifications for emergency operation of the Medical Plant Equipment. Except for the actual interconnection of the Medical Plant to the Additional Pipes, which shall be performed by Tenant prior to the Principal Term Commencement Date at a time and in a manner reasonably acceptable to the Nassau County Medical Center in its sole discretion, Tenant's right to take possession of, and its obligation to repair, replace and maintain, all or any portion of the Medical Plant Equipment shall commence upon receiving Landlord's reasonable approval of the PM Program. Until Tenant's receipt of such approval, and without affecting Tenant's other rights or obligations contained in this Lease, Tenant shall not occupy the Medical Plant from and after

the Principal Term Commencement Date other than to inspect the Medical Plant Equipment upon 24 hours' notice to Landlord and the Nassau County Medical Center. From and after the Principal Term Commencement Date, during the period, if any, which Landlord is operating the Medical Plant, Landlord shall be responsible for operating, repairing and maintaining the Medical Plant and the Medical Plant Equipment at Tenant's sole cost and expense, which shall be payable as additional rent by Tenant within 10 days after invoice by Landlord, supported by reasonable documentation where appropriate and available. Upon 180 days' written notice prior to the fifth anniversary of the Principal Term Commencement Date or upon such notice given each five years thereafter, Landlord may terminate the Lease with respect to the Medical Plant and operate the Medical Plant itself if, in Landlord's reasonable judgment, Tenant has not satisfactorily complied with the PM Program or otherwise performed its obligations under this Lease relating to operation, repair, maintenance and preventive maintenance of the Medical Plant. Upon such termination, the term of the Lease with respect to the Medical Plant and Medical Plant Equipment shall end and expire as if such date of termination were the date herein set forth for the expiration of the term of this Lease and Landlord shall assume all of Tenant's obligations with respect to the Medical Plant and Medical Plant Equipment and all expenses of operation, repair, maintenance and preventive maintenance, provided, however, that Tenant shall remain obligated for and shall continue to pay, as additional rent hereunder, an amount per month equal to Tenant's average monthly direct costs of operation, repair, maintenance and preventive maintenance of the Medical Plant and Medical Plant Equipment in the period prior to such termination (including utilities which are the responsibility of Tenant under this Lease). Such amounts shall be escalated each year following such termination by the average annual increase in the CPI over the preceding one year period.

(C) Each party shall designate from time to time a single representative who shall, after notification in writing of the other party of such designation, be the sole PM Program coordinator for that party.

(D) Concurrently with the preparation of the PM Program the equipment inventory appended hereto as ~~Exhibit D~~ shall be modified through the joint effort of Landlord and Tenant to include the boundaries on the Medical Plant leased space marked on appropriate "as-built" drawings provided to Tenant, and color coded drawings of the entire leased equipment spaces to identify clearly each piece of equipment, pipe, wire, or device of any kind located at the Medical Plant which is to be Tenant's responsibility. Medical Plant Equipment deficiencies apparent on physical inspection shall be noted on ~~Exhibit D~~.

(E) Following the first full year of operation, Tenant shall submit to Landlord, in writing, a list of additional deficiencies, if any, determined in the course of operation of the Medical Plant Equipment. After a reasonable opportunity for Landlord to verify these additional deficiencies, such list (as modified by mutual agreement) shall become an addendum to Exhibit D. The existence of any such deficiencies shall not release Tenant from the performance of ~~or otherwise~~ affect Tenant's obligation, whether pursuant to Section 8.1 of this Lease, or otherwise, to effect the continued maintenance and repair of the CUP and the Medical Plant such that they shall at all times be independently operable thermal energy plants.

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(F) Each of Landlord and Tenant shall designate not less than two and not more than four individuals to serve on a "Preventive Maintenance Committee", which designation shall include the persons described in subsection (C) above, and one or more (but not more than three) additional persons from time to time who shall serve as an operating committee for the term of this Lease and shall establish regular meetings no less frequent than every three months, and shall attempt to communicate all concerns of each party and resolve issues relating to maintenance of the Medical Plant Equipment and Existing Pipes. Minutes of each meeting shall be kept and become a part of the contract files.

Section 8.02 ENTRY BY LANDLORD: Landlord shall have the right to inspect (i) the C.U.P and the Medical Plant at all reasonable times upon notice to Tenant and (ii) the Cogeneration Plant during reasonable business hours and at reasonable times on not less than 24 hours prior written notice to Tenant (subject to safety and insurance requirements). Where Landlord is responsible for making the repair or replacement, or for performing preventive maintenance under the PM Program described in Section 8.01 above, Landlord shall promptly make any such repairs, replacements and preventive maintenance. If Tenant is responsible for the repair or replacement Landlord may, if Tenant has not itself made that repair or replacement, make those repairs and replacements which, if not made immediately, would jeopardize service to be provided by the C.U.P. or the Medical Plant. If Tenant is responsible for preventive maintenance as provided in the PM Program, Landlord may, if Tenant has not itself performed that preventive maintenance, perform that preventive maintenance. Tenant shall reimburse Landlord, as additional rent, within 10 days of Landlord's invoice, for any expenditures made by Landlord in a manner consistent with this Section 8.02 for such repairs, replacements or preventive maintenance, if they are Tenant's responsibility under this Lease.

ARTICLE 9 - MORTGAGES, LIENS AND ENCUMBRANCES

Section 9.01 MECHANIC'S LIENS: Tenant shall not suffer or permit any mechanic's or materialman's liens to be filed against the Premises, by reason of work, labor, services or materials supplied or claimed to have been supplied to Tenant or anyone holding any interest in Tenant's Facility or any part thereof through or under Tenant. If any such mechanic's or materialman's lien shall at any time be filed against Tenant's Facility, Tenant, within ninety (90) days after notice of the filing thereof, shall cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. If Tenant shall fail to cause such lien to be discharged within the period aforesaid, then, in addition to any other right or remedy of Landlord, Landlord may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or by bonding proceedings, and the cost thereof shall be reimbursed to Landlord, as additional rent, within 10 days of Landlord's invoice. Nothing in this Lease contained shall be deemed or construed in any way as constituting the consent or request of Landlord, express or implied by inference or otherwise, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials for any specific improvement, alteration to or repair of Tenant's Facility or any part thereof, nor as giving Tenant a right, power or authority to contract for or permit the rendering of any services for the furnishing of any materials that would give rise to the filing of any mechanic's or materialmen's liens against Tenant's Facility.

Section 9.02 LEASEHOLD MORTGAGES: Tenant may mortgage, pledge, assign, hypothecate or otherwise encumber its interest in this Lease and any permitted subleases to an Institutional Lender, under one or more Leasehold Mortgages, as hereinafter defined (together "mortgage") and may similarly mortgage its interest in the Cogeneration Plant, the Additional Pipes and any other portion of Tenant's Facility to which Tenant retains title as provided in Section 13.01 to one or more Institutional Lenders. If Tenant shall so mortgage this leasehold, or any part(s) thereof, Tenant shall, within ten (10) days of its execution, send to Landlord a true copy thereof, together with a written notice specifying the name and address of such Leasehold Mortgagee and the pertinent recording data with respect to such Leasehold Mortgages promptly after such data becomes available. Landlord agrees that so long as any such Leasehold Mortgages shall remain unsatisfied of record or until written notice of satisfaction is given by the holders thereof to Landlord, the following provisions shall apply:

(a) As to any such Leasehold Mortgage and as to any Institutional Sublease, Landlord consents to a provision therein, at the option of the Leasehold Mortgagee or the Institutional Lender, as appropriate (both the Leasehold Mortgagee and the Institutional Lender which is party to the Institutional Sublease, for purposes of this Section 9.02 and Section 12.12 below shall be referred to as the "Leasehold Mortgagee", and the Leasehold Mortgage and the Institutional Sublease for purposes of this Section 9.02 and Section 12.12 shall be referred to as the "Leasehold Mortgage"), (i) for an assignment of Tenant's share of the net proceeds from any award or other compensation resulting from a total or partial (other than temporary) taking as set forth in Article 14 of this Lease subject to the restoration obligation therein provided, (ii) for the entry of the Leasehold Mortgagee upon the Tenant's Facility during business hours without notice to Landlord or Tenant, to view the state of the Premises, (iii) that a default by Tenant under the Lease shall constitute a default under the Leasehold Mortgage, (iv) for a limitation on Tenant's right if any, to terminate, cancel, modify, change, supplement, alter or amend the Lease without the consent of such Leasehold Mortgagee, (v) for an assignment of any sublease to which the Leasehold Mortgage is subordinated, (vi) effective upon any default in such Leasehold Mortgage, (A) for the foreclosure of the Leasehold Mortgage (or termination of the Institutional Sublease and repossession by the Leasehold Mortgagee) pursuant to judicial proceedings or other lawful means and the subsequent sale of the leasehold estate and the fee estate in Tenant's property, (B) for the appointment of a receiver irrespective of whether the Leasehold Mortgagee accelerates the maturity of all indebtedness secured by the Leasehold Mortgage, (C) for the right of the Leasehold Mortgagee or the receiver with a substitute operator reasonably acceptable to Landlord ("Approved Operator") (any termination or replacement of such Approved Operator to be subject to Landlord's reasonable approval) to enter and take possession of the Tenant's Facility to manage and operate the same and to collect the sub-rentals, issues and profits therefrom and to cure any default under the Leasehold Mortgage or a default by Tenant under this Lease, and (D) for an assignment of Tenant's right, title, and interest in and to any deposit of cash, securities or other property which may be held to secure the performance of covenants, conditions and agreements contained in this Lease, the premiums for or dividends upon any insurance provided for the benefit of any Leasehold Mortgagee or required by the terms of the Lease, as well as in all refunds or rebates of taxes or assessments upon or other charges against the Premises, whether paid or to be paid. Landlord shall in no event be construed as unreasonable if it shall require of any proposed substitute operator proof of operational familiarity with similar equipment and operations.

(b) For the benefit of the holder of any Leasehold Mortgage or Institutional Lender pursuant to an Institutional

Sublease who shall have become entitled to notice as hereinafter provided in this Section 9.02, Landlord agrees, subject nevertheless to its right to terminate this Lease following a default by Tenant and to all the terms, covenants, agreements, provisions, conditions and limitations contained in this Lease, not to accept a voluntary surrender of this Lease at any time while such Leasehold Mortgage shall remain a lien on that leasehold or any such Institutional Sublease shall remain in force and effect; and Landlord and Tenant further agree for the benefit of any such Leasehold Mortgagee or Institutional Lender that so long as any such Leasehold Mortgage shall remain a lien on that Leasehold or such Institutional Sublease shall be in force and effect, Landlord and Tenant will not subordinate this Lease to any mortgage that may hereafter be placed on the fee and that no amendment or alteration of any of the terms of this Lease or consent to any pre-payment of any net rent or additional rent shall be binding upon such Leasehold Mortgagee without securing the written consent thereto from such Leasehold Mortgagee or Institutional Lender.

(c) If a Leasehold Mortgagee or Institutional Lender subtenant shall have given to Landlord before any default shall have occurred under this Lease, a written notice, specifying the name and address of such Leasehold Mortgagee or Institutional Lender subtenant, Landlord shall send by certified or registered mail to such Leasehold Mortgagee, or Institutional Lender subtenant a copy of each notice of default by Tenant at the same time as and whenever any such notice of default shall thereafter be given by Landlord to Tenant addressed to the Leasehold Mortgagee or Institutional Lender subtenant at the address last furnished to Landlord. No notice of default by Landlord shall be deemed to have been given unless and until a copy thereof shall have been so given to such Leasehold Mortgagee or Institutional Lender subtenant. Tenant irrevocably directs that Landlord accept, and Landlord agrees to accept, performance and compliance by any such Leasehold Mortgagee or Institutional Lender subtenant of and with any term, covenant, agreement, provision, condition or limitation on Tenant's part to be kept, observed or performed hereunder with the same force and effect as though kept, observed or performed by Tenant (which acceptance shall be limited to monetary terms, covenants, agreements, provisions, conditions or limitations unless an Approved Operator is in place); but Landlord shall not be obliged to accept such performance and compliance if, at any time, Landlord shall not have been furnished with evidence reasonably satisfactory to Landlord of the interest claimed by the party tendering such performance and compliance. Without impairing the generality of the foregoing right of subrogation, it is particularly agreed that any such Leasehold Mortgagee or Institutional Lender subtenant who shall have duly registered with Landlord, in case Tenant shall fail to appoint an arbitrator after written notice from Landlord to make such appointment as provided in Section 14.02 of this Lease,

shall have an additional period of ten (10) days within which to appoint a second arbitrator representing the Tenant who shall thereupon be recognized in all respects as if he had been appointed by Tenant. The holder of any first mortgage on the fee in the event of failure of Landlord to appoint an arbitrator shall likewise be entitled to an additional ten (10) days within which to appoint an arbitrator who shall thereupon be recognized in all respects as if he had been appointed by Landlord.

(d) In case of the termination of this Lease by reason of the happening of any Event of Default as specified in Article 12 of this Lease, Landlord shall give notice thereof to any Leasehold Mortgagee or Institutional Lender subtenant who shall have notified Landlord of its name and address pursuant to Section 9.02, which notice shall be addressed by certified or registered mail to such Leasehold Mortgagee or Institutional Lender subtenant at the address last furnished to Landlord as above provided. If within thirty (30) days after the mailing of such notice, such Leasehold Mortgagee or Institutional Lender subtenant shall pay, or arrange to the reasonable satisfaction of Landlord for the payment of the sum of money equal to all Rent due and payable by Tenant hereunder as of the date of such termination, Landlord shall, subject to the appointment of an Approved Operator (any termination or replacement of such Approved Operator to be subject to Landlord's reasonable approval), upon the written request of such Leasehold Mortgagee or Institutional Lender subtenant made any time within such thirty (30) day period mutually execute and deliver a new Lease of the Premises to such Leasehold Mortgagee or Institutional Lender subtenant or the nominee of such Leasehold Mortgagee or Institutional Lender subtenant for the remainder of the term of this Lease, and, to the extent permitted by law, with priority equal thereto, including priority over any mortgage of the fee at the rent and upon the terms, covenants, agreements, provisions, conditions and limitations herein contained, provided that such Leasehold Mortgagee or Institutional Lender subtenant shall have retained an Approved Operator (any termination or replacement of such Approved Operator to be subject to Landlord's reasonable approval) and paid to Landlord a sum of money equal to all Rent which, but for such termination, would have become due and payable under this Lease up to and including the date of the commencement of the term of such new Lease, and shall have cured, or in good faith undertaken to cure, to the extent susceptible to cure, any nonmonetary default by Tenant, and shall pay all expenses, including reasonable attorney's fees, of Landlord incurred by Landlord in connection with such default (including the cost of locating, and any compensation payable to, a substitute operator and costs of landlord's operating Tenant's Facility, net of revenues, while Tenant is in default as provided below), the termination of the Lease and in preparing the new lease, whereupon Landlord shall deliver possession of the Premises to such Leasehold Mortgagee or Institutional Lender

subtenant or the nominee of such Leasehold Mortgagee or Institutional Lender subtenant, subject to the appointment of an Approved Operator. Prior to the time when Landlord determines that an Approved Operator is able to operate Tenant's Facility in a manner reasonably satisfactory to Landlord and in accordance with this Lease and the Master Energy Agreement, at any time Tenant is in default hereunder beyond applicable cure periods available to Tenant (and not to a Leasehold Mortgagee or Institutional Lender subtenant), Landlord may enter and operate Tenant's Facility and continue to supply its facilities with thermal energy from all or any portion thereof.

(e) No other party, including a Leasehold Mortgagee or Institutional Lender subtenant or the nominee of any of them, shall be entitled to become the owner of or acquire any interest in this Lease pursuant to foreclosure and sale or eviction, as applicable, unless such parties shall deliver to Landlord an assumption agreement at the time of settlement of such sale executed in recordable form, wherein and whereby such party assumes this Lease by covenanting and agreeing on behalf of such party, the legal representatives, the successors and assigns of such party, to keep, observe and perform all of the terms, covenants, agreements, provisions, conditions and limitations of this Lease on Tenant's part to be kept, observed and performed. Any such party so assuming this Lease or having entered into a new Lease pursuant to the provisions of this Section 9.02(e) may assign this Lease or such new Lease or its interest in this Lease or in such new Lease subject to the provisions of Article 10. Any such Leasehold Mortgagee or Institutional Lender subtenant so assigning shall, upon satisfying all the conditions and complying fully with all the requirements of this Lease, be released from any and all liabilities and obligations as Tenant under this Lease or as Tenant under such new Lease as the case may be, accruing after such assignment, if and to the extent those obligations are assumed by the assignee, but such party, whichever shall be the assignor, shall not be released from any liability or obligation which shall have accrued prior to the effective date of any such assignment.

(f) If the Landlord shall have given notice of any default described in this Lease, the then holder of any Leasehold Mortgage who shall have become entitled to notice, as provided in Section 9.02(c) of this Lease shall not only have and be subrogated to any and all rights of the Tenant with respect to the curing of any such default, but shall also have the right to extend the period of time to thirty (30) days (twenty (20) days for monetary defaults) for the curing of any such default or for such longer period as in good faith will enable such Leasehold Mortgagee to institute foreclosure proceedings or appoint a receiver for this purpose, or such Institutional Lender subtenant to enforce its rights under the Institutional Sublease, to cure such default and/or to acquire by foreclosure or eviction

Tenant's interest in this Lease or in the Tenant's Property, to effect a removal of the Tenant from and/or acquire possession of the Premises and, proceeding in good faith, to cure such default, provided, however, the following conditions are duly and timely fulfilled:

- (i) Any such Leasehold Mortgagee or Institutional Lender subtenant shall within thirty (30) days after Tenant's failure to cure timely such default (twenty (20) days for monetary default), give written notice of intention to so acquire Tenant's interest and after such acquisition to cause the Tenant to be removed from the Tenants Facility, and so to cure such default, and at the time of the giving of such notice of intention such Leasehold Mortgagee or Institutional Lender subtenant shall pay to the Landlord any and all arrears in Rent together with accrued interest thereon from their respective due dates to the date of payment at the rate of interest per annum equal to the Citibank, N.A. "base" rate or the then equivalent rate, plus two (2) percent; and
- (ii) Such Leasehold Mortgagee or Institutional Lender subtenant shall after the giving of such notice of intention and payment of arrears as aforesaid, institute a foreclosure action (or eviction proceeding, as appropriate) and shall prosecute the same through foreclosure sale or eviction in good faith and with due diligence and continuity; and
- (iii) Such Leasehold Mortgagee or Institutional Lender subtenant during all of the times mentioned after the giving of such notice of intention and the payment of all arrears as aforesaid, shall, either through itself or by means of such receiver maintain this Lease and the Master Energy Agreement free from any further default.

Notwithstanding the foregoing, prior to the time when Landlord determines that an Approved Operator is able to operate Tenant's Facility in a manner reasonably satisfactory to Landlord and in accordance with this Lease and the Master Energy Agreement, at any time Tenant is in default hereunder beyond applicable cure periods available to Tenant (and not to a Leasehold Mortgagee or Institutional Lender subtenant), Landlord may enter and operate

Tenant's Facility and continue to supply its facilities with thermal energy from all or any portion thereof.

(g) In the event the leasehold estate created by this Lease and/or Tenant's Property shall have been duly acquired by such Leasehold Mortgagee or Institutional Lender subtenant, or their nominee, and all defaults susceptible to cure shall have been duly cured and such Leasehold Mortgagee or Institutional Lender subtenant or their nominee shall have assumed this Lease, all as in this Section 9.02 provided, then any default which the Tenant had failed to cure, which were curable and which have been cured shall be deemed removed as to any such mortgagee/purchaser or any such nominee/purchaser and the right of Landlord to serve notice of termination of this Lease based upon Tenant's failure to cure timely any such default, and suspended for the benefit of any such Leasehold Mortgagee shall be entirely eliminated as a result thereof.

(h) The parties hereto shall give the Leasehold Mortgagees entitled thereto as herein provided notice of any condemnation proceedings affecting Tenant's Facility, and such Leasehold Mortgagees shall have the right to intervene and be made a party to such condemnation proceedings as their interests may appear. Tenant's interest in any award or damages for such taking is hereby set over, transferred and assigned as provided for by the terms of any such Leasehold Mortgage or Institutional Sublease.

(i) Landlord agrees that the name of the Leasehold Mortgagees and Institutional Lender subtenants may be added to the "Loss Payable Endorsement" of any and all insurance policies required to be carried by Tenant hereunder on condition that the insurance proceeds are to be applied (either by Tenant or by any such Leasehold Mortgagee) in the manner specified in this Lease.

(j) No Leasehold Mortgagee or Institutional Lender subtenant shall become personally liable under the agreements, terms, covenants or conditions of this Lease unless and until it becomes, and then only for as long as it remains the owner of, the leasehold estate or Tenant's Property or asserts rights to occupy Tenant's Facility.

(k) There shall be no merger of this Lease nor of the leasehold estate created by this Lease with the fee estate in the Premises or any part thereof by reason of the fact that the same person, firm, corporation or other entity may acquire or own or hold, directly or indirectly,

(l) this Lease or the leasehold estate created by this Lease or any interest in this Lease or in any such leasehold estate, and

- (ii) the fee estate in the Premises or any part thereof or any interest in such fee estate,

and no such merger shall occur unless and until all corporations, firms and other entities, including any Leasehold Mortgagee or any subtenant, having any interest in (x) this Lease or the leasehold estate created by this Lease and (y) the fee estate in the Premises or any part thereof or any interest in such fee estate, shall join in a written instrument effecting such merger and shall duly record the same.

? 0 (1) Upon request, Landlord shall execute, acknowledge and deliver to each Leasehold Mortgagee or Institutional Lender subtenant making such request, an agreement prepared at the cost and expense of Tenant, in form reasonably satisfactory to such Leasehold Mortgagee or Institutional Lender subtenant and Landlord, among Landlord, Tenant and such Leasehold Mortgagee or Institutional Lender subtenant, confirming all of the provisions of this Section 9.02. The term "Leasehold Mortgage" and ("Institutional Sublease"), whenever used herein, shall include whatever security instruments are used in the locale of Tenant's Facility, as well as financing statements, security agreements and other documentation required pursuant to the Uniform Commercial Code.

(m) Landlord recognizes that at the date of execution hereof, Tenant has not made definitive arrangements for permanent leasehold financing or financing of Tenant's Property. Landlord, therefore, agrees that when a commitment for permanent financing of Tenant's leasehold interest or the Tenant's Property is obtained the proposed Leasehold Mortgagee or Institutional Lender subtenant may request technical amendments to this Lease. In such event, Landlord will entertain reasonable requests for technical amendments, provided the same do not individually, or in concert, cause, in Landlord's reasonable judgement, substantive amendments to the terms and conditions of this Lease.

Section 9.03 FEE MORTGAGES: During the Term, Landlord shall have the right and power to mortgage or otherwise create security interests affecting the fee interest in the Demised Land, to revise, modify, replace, extend or refinance such mortgages and to assign this Lease and the fixed annual rent and additional rents due hereunder as security therefor, provided (and subject to the conditions) that:

(a) Tenant's leasehold estate and any Leasehold Mortgage thereon shall not be subject or subordinate to any mortgage placed on the fee of the Demised Land;

(b) the holder of such fee mortgage shall not, in the exercise of any of its rights arising or which may arise out of such mortgage or instrument modifying or amending the same or in

substitution or replacement thereof, disturb or deprive Tenant in or of its possession or its right to possession of the Premises or any right or privilege created for or inuring to the benefit of Tenant under this Lease, or any replacement lease between Landlord and any Leasehold Mortgagee provided this Lease or that replacement lease is then in full force and effect;

(c) In the event of a default under any such fee mortgage, provided this Lease or any replacement lease shall be in full force and effect, neither Tenant, any Leasehold Mortgagee nor Institutional Lender subtenant shall be made a party in any action or proceeding to foreclose such mortgage nor shall Tenant, any Leasehold Mortgagee nor Institutional Lender subtenant be evicted or removed or its possession or right of possession be disturbed or in any manner interfered with, and this Lease and any replacement lease between Landlord and any Leasehold Mortgagee shall continue in full force and effect as a direct lease from the holder of the fee mortgage, or the purchaser of the Demised Land at a foreclosure sale pursuant to the fee mortgage, to Tenant, or the Leasehold Mortgagee under the terms and provisions of this Lease or such replacement lease;

(d) Intentionally Omitted.

(e) Landlord agrees that in the event Landlord receives an offer to purchase the fee title to the Premises (or any part thereof) from a non-governmental entity, which Landlord intends to accept or the terms of which Landlord intends to negotiate in contemplation of acceptance, other than a sale immediately following which Landlord will lease the Premises back from the purchaser as a means to finance the Premises, Landlord shall deliver a copy of that offer to Tenant and Tenant may within fifteen (15) days after receiving a copy of that offer, offer to purchase the Premises on the same terms and conditions, or such other terms and conditions as Landlord notifies Tenant it would accept, and Landlord shall accept that offer from Tenant provided that the Board of Supervisors or other body empowered to bind Landlord has agreed to such sale on such terms. In the event that Tenant shall fail to give such notice within the time period referred to, Tenant shall be deemed conclusively to have elected to decline to acquire the Landlord's interest, provided that such sale by Landlord is consummated for an aggregate purchase price which is 95 percent or more of the price, and on terms substantially similar to the terms, contained in the offer to purchase forwarded to Tenant. If the price at which Landlord is willing to sell the Premises is less than 95 percent of the price contained in the offer to purchase previously delivered to Tenant or if the terms are not substantially similar to the terms contained in the offer to purchase previously delivered to Tenant than Landlord shall submit to Tenant the price and terms of the offer to purchase which Landlord, by action of its Board of Supervisors or other body empowered to bind Landlord is willing

to accept, after receipt of which Tenant shall have a further period of fifteen (15) days within which to offer to purchase the Premises on the same terms and conditions, which Landlord shall accept.

Landlord shall furnish the documentation and notice of proposed transaction in the manner herein provided for the giving of notices and Tenant's notice of election shall be similarly given.

Section 9.04 NO LIENS OR ENCUMBRANCES: In the event of any non-disclosed lien, or encumbrance on the Premises or any portion thereof on the Effective Date that would adversely affect Tenant's ability to utilize the Premises for the generation and distribution of thermal or electrical energy, Landlord shall promptly cause the removal or satisfaction thereof at its cost and expense so that the Premises, this Lease and Tenant's leasehold estate shall be free and clear of all such matters. Tenant has obtained, at Tenant's expense, a title report from a reputable land title insurance company or its agent or representative and has delivered a copy of that report to Landlord showing only those encumbrances listed in paragraphs 1-5 on Exhibit E.

Section 9.05 LANDLORD'S SHARED APPRECIATION:

Upon sale or other disposition (other than for purposes of the Leasehold Mortgage, sale-leaseback, equipment or building loan financing or bond indebtedness relating to Tenant's Facility or any other form of financing to an Institutional Lender for which the assignment of this Lease is required as collateral security) ("sale") of all or a portion of any interest in the Cogeneration Plant and the Additional Pipes (or all or a portion of any entity that directly owns those assets) and/or assignment of this Lease pursuant to Section 10.02 below at any time during the Term, Tenant shall pay Landlord twenty-five (25%) percent of the net proceeds determined after offsetting against the gross sale price (i) all transactional costs including, without limitation, transfer taxes, brokerage fees and legal expenses in connection with the sale and (ii) the "book value" of the assets sold, which shall mean their acquisition cost less depreciation computed on the straight line method through the year prior to the year of sale. If sale proceeds are received in installments after the sale date, Tenant shall pay Landlord or cause Landlord to be paid if the entity that owns the assets, rather than the assets, is sold, a prorata portion of the net proceeds as they are received. Notwithstanding the foregoing, Tenant may sell up to an aggregate of thirty-five (35%) percent of those assets and, subject to the provisions governing consent of Landlord contained in Section 10.02, Landlord shall permit the sale of an aggregate of up to a thirty-five (35%) percent interest in the entity that directly or indirectly owns the assets at any time during the five-year period beginning with the Effective Date without any obligation

to pay Landlord any part of the proceeds. Tenant shall not, prior to the expiration of that five-year period, sell more than a thirty-five (35%) percent interest in its assets (which computation shall include for these purposes any reduction of ownership resulting from a subletting to an affiliate under Section 10.01) or permit the sale of more than a thirty-five (35%) percent interest in any entity that directly or indirectly owns those assets (which computation shall include for these purposes any reduction of ownership resulting from subletting to an affiliate under Section 10.01). Direct or indirect ownership shall include Tenant or any corporation or other entity which (i) controls more than a 50 percent interest in Tenant and (ii) does not own directly or indirectly significant assets other than the leasehold created by this Lease and Tenant's Facility or its interest in Tenant, as the case may be. Neither this section 9.05 nor any other provision of this Lease shall prohibit any sale by registered public offering of any interest in Tenant or any entity that directly or indirectly controls a 50 percent interest in Tenant.

ARTICLE 10 - TRANSFERS OF INTEREST AND ASSIGNMENTS

Section 10.01 SUBLETTING: Subject to the provisions of this Lease, Tenant may sublease or lease and leaseback in whole only, the C.U.P., the Existing Pipes, the Equipment and the Medical Plant, and may lease, in whole only, the Cogeneration Plant, the Additional Pipes and all other improvements constructed by Tenant during the Term ("Tenant's Property"), provided that Tenant immediately subleases back the subleased and leased property from the tenant or subtenant, as appropriate, and further provided that the sub-tenant or tenant, as appropriate, is an Institutional Lender (an "Institutional Sublease"). Tenant agrees to furnish prior written notice to Landlord of any such sublease or lease, together with the name and address of the sublessee or lessee as appropriate. Any other sublease shall be prohibited without the written consent of Landlord. Notwithstanding the foregoing, Tenant may at any time, upon notice to, but without need for approval of the Landlord, sublease (an "Affiliate Sublease") all, but not less than all, the Tenant's Facility to any entity at all times controlling, controlled by or under common control with Tenant ("Affiliate"). "Control" for these purposes shall mean the ownership and power to vote sixty-five (65%) percent or more of the voting stock or partnership interest of an entity.

Section 10.02 ASSIGNMENT: Tenant agrees that, except with respect to an assignment or assignments of this Lease for the purposes of the Leasehold Mortgage, sale-leaseback, equipment or building loan financing or bond indebtedness relating to Tenant's Facility or any part thereof, or any other form of financing to an Institutional Lender for which the assignment of

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this Lease is required as collateral security and accept as permitted under Section 9.05, Tenant shall not, prior to the fifth anniversary of the Effective Date, assign this Lease without the prior consent of Landlord. As used in this Lease, the term "assignment" shall include the transfer (directly or indirectly, as described in the penultimate sentence of Section 9.05) whether by operation of law or otherwise) of any capital stock in Tenant, provided that Tenant may at any time transfer up to an aggregate of thirty-five (35%) percent of its capital stock with the consent of Landlord, which shall not be unreasonably withheld or delayed. Notwithstanding the previous sentence, Tenant may at any time sell by public offering any interest in Tenant without the consent of Landlord. Commencing with the fifth anniversary of the Effective Date, Landlord shall not unreasonably withhold or delay its consent to assignment of this Lease by Tenant, provided the assignee delivers to Landlord a written agreement, in form satisfactory to Landlord, assuming this Lease and the obligations of Tenant hereunder, which consent, except in the case of the transfer of any interest in the capital stock of Tenant which does not affect the management and/or operations of Tenant's Facility, shall be based solely on the financial ability of the proposed assignee to assume the obligations of Tenant under this Lease and the proven capability of the assignee or an Approved Operator under contract with the assignee (with any termination or replacement of such Approved Operator to be subject to Landlord's reasonable approval), to operate Tenant's Facility. Tenant shall not be relieved of Tenant's liability, notwithstanding any such assignment.

Section 10.03 LIMITATION OF LANDLORD'S LIABILITY: The term "Landlord" as used in this Lease (as far as covenants or obligations on the part of Landlord are concerned), shall be limited to mean and include only the owner or owners at the time in question of the fee title to the Demised Land and if Landlord is a governmental entity, "Landlord" shall refer to that entity only with respect to its rights and obligations as landlord under this Lease and not to its rights, powers and obligations as a governmental entity. In the event of any transfer or transfers of title to such fee, Landlord herein named (and in case of any subsequent transfers or conveyances the then grantor) shall, except where such exculpation is prohibited by law, be automatically relieved from and after the date of such transfer or conveyance of all personal liability in respect of the performance of any covenants or obligations on the part of Landlord contained in this Lease thereafter to be performed, provided that the successor-in-interest shall have assumed the obligations of this Lease and that any funds in the hands of such Landlord or the then grantor at the time of such transfer in which Tenant has an interest shall be turned over to the grantee, and any liquidated amount then due and payable to Tenant by Landlord or the then grantor under any provision of this Lease shall be paid to Tenant. Landlord shall remain liable for any amount agreed to by Tenant which is not then a liquidated sum or due and payable and for any obligation incurred by Landlord to Tenant prior to transfer of the fee. It is intended hereby that the covenants and obligations contained in this Lease on the part of Landlord shall, subject as aforesaid, be binding on Landlord, its successors and assigns, only during and in respect of their respective successive periods of ownership and then only as to the matters which had accrued during their ownership; provided, however, that nothing herein contained shall be

construed as limiting or extinguishing any set-off or defense available to Tenant arising from any default hereunder at any time by Landlord or any successor-in-interest to Landlord.

ARTICLE 11 - UTILITIES (HEAT, ELECTRIC, WATER, ETC.)

Section 11.01 UTILITIES, INSTALLATION AND SERVICES:

During the Construction Term, the provision of utilities and services necessary for the operation of the C.U.P. shall be governed by the terms and provisions of Section 3.03 hereof. During the Principal Term, Tenant, at its cost and expense, shall provide and pay for all of the necessary utilities and services needed for the operation of the C.U.P., the Medical Plant (including, without limitation, operation of the chillers, chiller pumps, and boiler feed pumps) and the Cogeneration Plant. Such utilities include, but are not limited to, electricity, telephone services, water supply, heating, plumbing and air-conditioning.

Section 11.02 UTILITY EASEMENTS AND CROSS-EASEMENTS:

(a) To the extent permitted by law or applicable regulation, including, without limitation, the requirements of the Department of Public Works and rules promulgated by the Board of Health, Landlord, solely in its capacity as Landlord, shall not unreasonably withhold or delay its consent to Tenant's request for one or more easements with regard to adjacent lands and improvements owned by Landlord as are necessary, in Tenant's judgment, to receive utilities and to provide, in accordance with applicable codes, users and potential users of Tenant's services with thermal, cooling and electric power. Landlord shall be deemed to have consented to any such easement requested by Tenant if Landlord does not deny or otherwise respond to such request within 10 business days. To the extent consented to by Landlord, Landlord shall execute any and all documents, agreements and instruments, and take all other actions, in order to effectuate the same, all at Tenant's cost and expense; provided, however, that easements burdening adjacent lands shall not by their terms extend for a period in excess of the remaining portion of the Term then in effect at the time of the creation of the easement and any options to extend, unless Landlord shall specifically agree, at Landlord's option, to extend the term of the easement for a longer period.

(b) Tenant shall have the right to enter into reasonable agreements with such parties as Tenant shall deem appropriate, creating cross and reciprocal easements (or to request Landlord to create the same directly) including, but not limited to, the mutual or reciprocal use of associated rights of way, such surface or sublease easements over or under the Demised Land as may be necessary to install such utilities as may be required or requested for the installation of utilities (including, without limitation, water, sewer, gas, telephone and electric), and such other areas or facilities, the mutual or reciprocal use of which is reasonably beneficial to both or all parties, provided those easements do not adversely affect the

operation of the C.U.P, do not involve demolition of any structure or adversely affect ingress or egress thereto. Such easements shall run with the land and inure to the benefit of Tenant, its assignee(s), as well as its or their heirs, successors, administrators and assigns and shall be binding upon Tenant and any assignee of this Lease. Upon the request of Tenant, Landlord shall use reasonable efforts (without the actual expenditure of funds), solely in its capacity as Landlord, to assist Tenant to obtain such easements.

(c) Upon the termination of this Lease, except where a new lease is executed in accordance with the provisions of Section 9.02 and in that event upon the termination of such new lease, all of the foregoing provisions of this Section shall have no further force and effect, except that Landlord may, at Landlord's option, elect to retain the benefit of any reciprocal easement executed pursuant to this Section 11.02.

Section 11.03 UTILITY AGREEMENTS AND STREETS: Landlord shall not unreasonably withhold or delay its consent to Tenant's request to execute any and all documents (reasonably satisfactory to both parties and their counsel) required or requested by any utility company or authority for the installation of utilities and/or quasi-utilities (including, without limitation, water, sewer, gas, telephone and electric) necessary or desirable for Tenant's Facility. Landlord shall be deemed to have consented to Tenant's request if Landlord does not deny or otherwise respond to Tenant's request within 10 business days. If Landlord denies Tenant's request, Landlord shall simultaneously with such denial, deliver one or more proposals to Tenant and the appropriate utility company for an alternative route for such utility. Landlord shall endeavor in good faith, and shall make its representatives available, to arrange with the utility and quasi utility for the location of a mutually acceptable utility route. Nothing herein contained shall be deemed to exempt or diminish the obligations of Landlord to construct certain roads, storm sewers, sanitary sewers and other improvements and to provide those services which Landlord would ordinarily provide in its capacity as a municipal corporation.

Section 11.04 EASEMENTS BY LANDLORD: Tenant hereby grants to Landlord such surface or subsurface easements as may be necessary to install such utilities as may be required by this Lease or may be required by the County for any public purpose, provided it does not affect or interfere with the enjoyment of Tenant's Facility by Tenant for the purposes set forth in this Lease, and does not involve any demolition of any existing improvement nor affect ingress or egress thereto nor prevent or materially interfere with the construction or erection of the Cogeneration Plant or other improvements as contemplated under this Lease or the ~~Master Energy Agreement~~.

It is understood and agreed, however, that in the event Landlord requires pipes, drains, wires or other utility facilities to be placed under the Demised Land for the public benefit, the same shall only be done in the event that no other course or location is practicable or economically viable in the reasonable opinion of Landlord. In the event that Landlord installs such utility facilities under structures erected upon the Demised Land, the work shall progress in a manner that will not materially interfere with Tenant's use and enjoyment of the Premises, and shall be done as expeditiously as is practicable. Further, the County shall promptly repair any damage that has been done and put Tenant's Facility in the same condition or as nearly thereto as is practicable as the same existed prior to the construction and installation above described. Notwithstanding the foregoing, any such work to be done by the County shall be done at such location(s) as do not adversely interfere with any structures above or below ground.

ARTICLE 12 - TERMINATION ON DEFAULT

Section 12.01 FAILURE TO PERFORM: Tenant covenants and agrees that if it shall fail to perform any act on its part to be performed as required hereunder, then Landlord may, but shall not be obligated to, upon thirty (30) days' notice to Tenant (except as otherwise provided in the ~~Master Energy Agreement~~), without waiving or releasing Tenant from any obligations of Tenant in this Lease contained, perform any act on Tenant's part to be performed as in this Lease provided. Tenant indemnifies Landlord for any and all acts of Landlord on Tenant's behalf performed in a manner consistent with this Section 12.01, other than for Landlord's gross negligence or willful misconduct.

Such failure to perform shall not be deemed an Event of Default, as hereinafter defined, unless Landlord declares an Event of Default and gives the notice required by Section 12.02. All sums so paid by Landlord pursuant to this Section 12.01, or pursuant to Sections 8.02 or 9.02 and all necessary incidental costs and expenses paid or incurred by Landlord in connection with the performance of any such act by Landlord, together with interest thereon at the "base rate" per annum or equivalent rate charged from time to time by Citibank, N.A. plus two percent from the date of making of such expenditure, shall be deemed additional rent and shall be payable to Landlord ten (10) days after demand or, at the option of Landlord, may be added to any Base Rent then due or thereafter becoming due under this Lease, and Tenant covenants to pay any such sum or sums with interest as aforesaid.

Section 12.02 EVENTS OF DEFAULT: Subject to Section 9.02, in case one or more of the following events (each herein called an "Event of Default") shall have occurred:

(a) failure twice during any calendar year to pay Rent when due, in each case, for a period of ten (10) days after notice is given by Landlord to Tenant specifying such failures;

(b) any default by Tenant (after applicable grace periods) shall have occurred under the Master Energy Agreement;

(c) If Tenant shall file a voluntary petition seeking an order for relief under Title 11 of the United States Code or Tenant shall be adjudicated a debtor, bankrupt or insolvent or shall file any petition or answer seeking, consenting to or acquiescing in any order for relief, reorganization, arrangement, composition adjustment, winding-up, liquidation, dissolution or similar relief with respect to Tenant or its debts under the present or any future federal bankruptcy act or any other present or future applicable federal, state or other statute or law (foreign or domestic), or shall file an answer admitting or failing to deny the material allegations of a petition against it for any such relief or shall generally not, or shall be unable to pay its debts as they become due or shall admit its insolvency or its inability to pay its debts as they become due, or shall make a general assignment for the benefit of creditors or shall seek or consent or acquiesce in the appointment of any trustee, receiver, examiner, assignee, sequestrator, custodian or liquidator or similar official of Tenant or of all or any of the foregoing; or if Tenant shall call a meeting of or propose any form of arrangement, composition, extension or adjustment with its creditors holding a majority in amount of Tenant's outstanding indebtedness; or

(d) if any case, proceeding or other action shall be commenced or instituted against Tenant, seeking to adjudicate Tenant a bankrupt or insolvent, or seeking an order for relief against Tenant as debtor, or reorganization, arrangement, composition, adjustment, winding-up, liquidation, dissolution or similar relief with respect to Tenant or its debts under any present or future federal bankruptcy act or any other present or future applicable federal, state or other statute or law (foreign or domestic), or seeking appointment of any trustee, receiver, examiner, assignee, sequestrator, custodian or liquidator or similar official of Tenant or of all or any part of Tenant's property, which either (i) results in the entry of an order for relief, adjudication of bankruptcy or insolvency or such an appointment or the issuance or entry of any other order having a similar effect or (ii) remains undismissed for a period of 60 days; or if any case, proceeding or other action shall be commenced or instituted against Tenant seeking issuance of a warrant of execution, attachment, distraint or similar process against Tenant or any of Tenant's property which results in either (x) the entry of an order for any such relief which shall not have been vacated, discharged, stayed or bonded pending appeal within 60 days after the entry thereof or (y) the taking

or occupancy of Tenant's Facility or an attempt to take or occupy Tenant's Facility; or

(e) if Tenant's Facility shall become vacant or deserted for a period of 30 consecutive days or abandoned, or if Tenant shall fail to take occupancy of the Premises;

(f) any subletting or assignment of this Lease by Tenant contrary to the provisions of Sections 10.01 and 10.02;

(g) failure to deliver an annual statement of net worth as required by Section 2.02(c)(v) or to deliver a guarantee required by Section 2.02(c)(vi), each after 10 days written notice from Landlord;

Landlord may, at its option, give to Tenant notice of its election to end the Term at the expiration of thirty (30) days from the date of service of such notice, and if such notice is given, then at the expiration of such thirty (30) days, the Term and all right, title and interest of Tenant hereunder shall expire as fully and completely as if that day were the date herein specifically fixed for the expiration of the Term, and Tenant will then quit and surrender Tenant's Facility to Landlord, but Tenant shall remain liable as hereinafter provided. If an Event of Default shall occur, Landlord may elect to declare due and payable a sum equal to the amount by which the Rent reserved in this Lease for the unexpired portion of the Term exceeds the fair and reasonable rental value of the Premises for the same period, both discounted to present value at the rate of eight percent (8%), such sum to be due and payable ten (10) days after notice by Landlord to Tenant of such election. However, the aforesaid remedy shall not be applicable to a Leasehold Mortgagee or Institutional Lender subtenant which elects to cure the Event of Default of Tenant pursuant to Section 9.02 or receives a new lease pursuant to Section 9.02(d). Landlord may also elect to proceed by appropriate judicial proceedings, either at law or in equity, to enforce performance or observance by Tenant of the applicable provisions of this Lease and/or to recover damages for breach thereof.

Section 12.03 LANDLORD'S RIGHT TO TERMINATE; RE-ENTRY:

(a) Anything contained herein to the contrary notwithstanding, if termination shall be stayed by order of any court having jurisdiction over any proceeding described in Sections 12.02(c) or (d) hereof, or by federal or state statute, then, following the expiration of any such stay, or if the trustee appointed in any such proceeding, Tenant or Tenant as debtor-in-possession shall fail to assume Tenant's obligations under this Lease within the period prescribed therefor by law or within one hundred twenty (120) days after entry of the order for relief or as may be allowed by the court, or if said trustee, Tenant or Tenant as debtor-in-possession shall fail to provide

adequate protection of Landlord's right, title and interest in and to the Premises or adequate assurance of the complete and continuous future performance of Tenant's obligations under this Lease and the ~~Master Energy Agreement~~, Landlord, to the extent permitted by law or by leave of court having jurisdiction over such proceeding, shall have the right, at its election, to terminate this Lease on ten (10) days notice to Tenant, Tenant as debtor-in-possession or said trustee and upon the expiration of said ten (10) day period this Lease shall cease and expire as aforesaid and Tenant, Tenant as debtor-in-possession and/or trustee shall immediately quit and surrender the Premises aforesaid.

(b) If an Event of Default described in Section 12.02 shall occur, or this Lease shall be terminated as provided in Section 12.02, Landlord, without notice, may re-enter and repossess the Premises using such force for that purpose as may be necessary without being liable to indictment, prosecution or damages therefor and may dispossess Tenant by summary proceedings or otherwise.

Section 12.04 RELETTING: If this Lease shall be terminated as provided in Section 12.02 or Tenant shall be dispossessed by summary proceedings or otherwise as provided in Section 12.03(a) hereof:

(a) Tenant shall pay to Landlord all Rent payable by Tenant under this Lease to the date upon which this Lease and the Term shall have expired and come to an end or to the date of re-entry upon the Premises by Landlord, as the case may be;

(b) Landlord may let or relet the Premises or any part thereof for the whole or any part of the remainder of the Term or for a longer period, in Landlord's name or as agent of Tenant, and out of any rent and other sums collected or received as a result of such reletting Landlord shall: (i) first, pay to itself the reasonable cost and expense of terminating this Lease, re-entering, retaking, repossessing, completing construction and repairing or altering the Premises, or any part thereof, and the cost and expense of removing all persons and property therefrom, including in such costs brokerage commissions, legal expenses and reasonable attorneys' fees and disbursements, (ii) second, pay to itself the reasonable cost and expenses sustained in securing any new tenants and other occupants, including in such costs brokerage commissions, legal expenses and reasonable attorneys' fees and disbursements and other expenses of preparing the Premises for reletting, and if Landlord shall maintain and operate the Premises, the reasonable cost and expense of operating and maintaining the Premises, and (iii) third, pay to itself any balance remaining on account of the liability of Tenant to Landlord; Landlord in no way shall be responsible or liable for any failure to relet the Premises or any part thereof, or for any failure to collect any rent due on any such reletting,

and no such failure to relet or to collect shall operate to relieve Tenant of any liability under this Lease or to otherwise affect any such liability;

(c) if Landlord shall not have declared all Rent due and payable pursuant to the last paragraph of Section 12.02 hereof, Tenant shall be liable for and shall pay to Landlord, as damages, any deficiency (referred to as "Deficiency") between the Rent reserved in this Lease for the period which otherwise would have constituted the unexpired portion of the Term and the net amount, if any, of rents collected under any reletting effected pursuant to the provisions of Section 12.04(b) for any part of such period (first deducting from the rents collected under any such reletting all of the payments to Landlord described in Section 12.04(b) hereof); any such Deficiency shall be paid in installments by Tenant on the days specified in this Lease for payment of installments of Rent, and Landlord shall be entitled to recover from Tenant each Deficiency installment as the same shall arise, and no suit to collect the amount of the Deficiency for any installment period shall prejudice Landlord's right to collect the Deficiency for any subsequent installment period by a similar proceeding; and

(d) if Landlord shall not have declared all Rent due and payable pursuant to the last paragraph of Section 12.02, and whether or not Landlord shall have collected any Deficiency installments as aforesaid, Landlord shall be entitled to recover from Tenant, and Tenant shall pay to Landlord, on demand, in lieu of any further Deficiencies, as and for liquidated and agreed final damages (it being agreed that it would be impracticable or extremely difficult to fix the actual damage), a sum equal to the amount by which the Rent reserved in this Lease for the period which otherwise would have constituted the unexpired portion of the Term exceeds the then fair and reasonable rental value of the Premises for the same period, both discounted to present worth at the rate of 8 percent per annum less the aggregate amount of Deficiency theretofore collected by Landlord pursuant to the provisions of Section 12.04(c) for the same period; it being agreed that before presentation of proof of such liquidated damages to any court, commission or tribunal, if the Premises, or any part thereof, shall have been relet by Landlord for the period which otherwise would have constituted the unexpired portion of the Term, or any part thereof, the amount of rent reserved upon such reletting shall be deemed, prima facie, to be the fair and reasonable rental value for the part or the whole of the Premises so relet during the term of the reletting.

SECTION 12.05 SURVIVAL OF TENANT'S LIABILITIES: No termination of this Lease pursuant to Section 12.02 or taking possession of or reletting the Premises, or any part thereof, pursuant to Sections 12.03(b) and 12.04(b), shall relieve Tenant of its liabilities and obligations hereunder, all of which shall survive such expiration, termination, repossession or reletting.

SECTION 12.06 WAIVER OR RELEASE: To the extent not prohibited by law, Tenant hereby waives and releases all rights now or hereafter conferred by statute or otherwise which would have the effect of limiting or modifying any of the provisions of this Article 12. Tenant shall execute, acknowledge and deliver any instruments which Landlord may request, whether before or after the occurrence of an Event of Default, evidencing such waiver or release.

SECTION 12.07 DAMAGE SUITS: Suit or suits for the recovery of damages, or for a sum equal to any installment or installments of Rent payable hereunder or any Deficiencies or other sums payable by Tenant to Landlord pursuant to this Article 12, may be brought by Landlord from time to time at Landlord's election, and nothing herein contained shall be deemed to require Landlord to await the date whereon this Lease or the Term would have expired had there been no Event of Default by Tenant and termination.

SECTION 12.08 DAMAGES UPON BANKRUPTCY, DISSOLUTION ETC.: Nothing herein contained in this Article 12 shall limit or prejudice the right of Landlord to prove and obtain liquidated damages in any bankruptcy, insolvency, receivership, reorganization or dissolution proceeding an amount equal to the maximum allowed by statute or rule of law governing such proceeding and in effect at the time when such damages are to be proved, whether or not such amount shall be greater than, equal to or less than the amount of damages referred to in any of the preceding Sections of this Article 12.

SECTION 12.09 WAIVER OF REDEMPTION: Except as otherwise expressly provided herein or as prohibited by applicable law, Tenant hereby expressly waives for itself and for any person or entity claiming through or under Tenant, the service of any notice of intention to re-enter provided for in any statute, or of the institution of legal proceedings to that end, and Tenant, for and on behalf of itself and all persons claiming through or under Tenant, also waives any and all right of redemption provided by any law or statute now in force or hereafter enacted or otherwise, or re-entry or repossession or to restore the operation of this Lease in case Tenant shall be dispossessed by a judgment or by warrant of any court or judge or in case of re-entry or repossession by Landlord or in case of expiration or termination of this Lease, and Landlord and Tenant waive and shall waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matter whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises, or any claim of injury or damage. The terms "enter", "re-enter", "entry" or "re-entry", as used in this Lease, are not restricted to their technical legal meaning.

12.10 COSTS AND EXPENSES; INTEREST: Tenant shall pay to Landlord all costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred by Landlord in any successful action or proceeding to which Landlord may be made a party by reason of any act or omission of Tenant. Tenant also shall pay to Landlord all costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred by Landlord in successfully enforcing any of the covenants and provisions of this Lease and/or the Master Energy Agreement and incurred in any action brought by Landlord against Tenant on account of the provisions hereof, and all such costs, expenses, and reasonable attorneys' fees and disbursements may be included in and form a part of any judgment entered in any proceeding brought by Landlord against Tenant on or under this Lease. Landlord shall submit to Tenant a statement, in reasonable detail, substantiating the amounts demanded by Landlord. All of the sums paid or obligations incurred by Landlord as aforesaid, with interest at the base rate plus two (2) percent charged from time to time by Citibank N.A., or such substitution rate as shall be in effect from time to time, shall be paid by Tenant to Landlord within fifteen (15) days after demand by Landlord.

SECTION 12.11 BANKRUPTCY: If an order of relief is entered or if a stay of proceeding or other act becomes effective in favor of Tenant or Tenant's interest in this Lease in any proceeding which is commenced by or against Tenant under the present or any future Bankruptcy Code or any other future applicable federal, state or other bankruptcy statute or law, Landlord shall be entitled to invoke any and all rights and remedies available to it under such bankruptcy code, statute, law or this Lease, including, without limitation, such rights and remedies as may be necessary to adequately assure the complete and continuous future performance of Tenant's obligations under this Lease and the Master Energy Agreement. Adequate protection of Landlord's right, title and interest in and to the Premises, adequate assurance of the complete and continuous future performance of Tenant's obligations under this Lease and the Master Energy Agreement, shall include, without limitation, the following requirements:

- (a) that Tenant shall comply with all of its obligations under this Lease and the Master Energy Agreement;
- (b) that Tenant shall continue to use the Premises in the manner required by this Lease;
- (c) that Tenant shall hire, at its sole cost and expense, such security personnel as may be necessary to insure the adequate protection and security of the Premises;

(d) that Tenant shall pay to Landlord within thirty (30) days after entry of such order or the effective date of such stay, as partial adequate protection against future diminution in value of the Premises and adequate assurance of the complete and continuous future performance of Tenant's obligations under this Lease, a security deposit as may be required by law or ordered by the court;

(e) that Landlord be granted a security interest acceptable to Landlord in property of Tenant, other than property of any of Tenant's officers, directors, shareholders, employees or partners, to secure the performance of Tenant's obligations under this Lease; and

(f) that if Tenant's trustee, Tenant or Tenant as debtor-in-possession assumes this Lease and proposes to assign the same (pursuant to Title 11 U.S.C. § 365, as the same may be amended) to any person who shall have made a bona fide offer to accept an assignment of this Lease on terms acceptable to the trustee, Tenant or Tenant as debtor-in-possession, then notice of such proposed assignment, setting forth (i) the name and address of such person, (ii) all of the terms and conditions of such offer, and (iii) the adequate assurance to be provided Landlord to assure such person's future performance under the Lease and the ~~Nuclear Energy Agreement~~, including, without limitation, the assurances referred to in Title 11 U.S.C. § 365(b)(3) (as the same may be amended) and the retention of an Approved Operator, shall be given to Landlord by the trustee, Tenant or Tenant as debtor-in-possession no later than twenty (20) days after receipt by the trustee, Tenant or Tenant as debtor-in-possession of such offer, but in any event no later than ten (10) days prior to the date that the trustee, Tenant or Tenant as debtor-in-possession shall make application to a court of competent jurisdiction for authority and approval to enter into such assignment and assumption, and Landlord shall thereupon have the prior right and option, to be exercised by notice to the trustee given at any time prior to the effective date of this Lease upon the same terms and conditions and for the same consideration, if any, as the bona fide offer made by such person, less any brokerage commissions which may be payable out of the consideration to be paid by such person for the assignment of this Lease.

Section 12.12 LIENHOLDERS - PRIORITY: If at any time there shall be more than one Leasehold Mortgage constituting a lien on this Lease and the leasehold estate hereby created, the holder of the Leasehold Mortgage prior in lien shall be vested with the rights (and thereby subject to the requirements) under this Lease to the exclusion of the holder of any junior Leasehold Mortgage; provided, however, that if the holder of a Leasehold Mortgage prior in lien to any other Leasehold Mortgage shall fail or refuse to exercise the rights set forth in this Lease, each holder of a Leasehold Mortgage in the order of the priority of

their respective liens shall have the right to exercise such rights; and provided further, however, that with respect to the right of the holder of a Leasehold Mortgage under Section 9.02 to request a new lease, such right may be exercised by the holder of any junior Leasehold Mortgage in the event the holder of a prior Leasehold Mortgage shall not have exercised such right, if such request shall be made within the same thirty (30) day period and such new lease shall be executed and delivered within ten (10) days following the expiration of such thirty (30) day period and the holder of such junior Leasehold Mortgage shall comply with the applicable requirements of this Lease. The opinion of a title company which is a member of the New York Board of Title Underwriters, setting forth the order of lien priority of the Leasehold Mortgages, may be relied upon by Landlord as presumptive evidence of priority. In order to effectuate the provisions of this Section 12.12, Landlord agrees to provide notices to all Leasehold Mortgagees entitled to notice of defaults pursuant to Section 9.02(c) and to permit them to exercise the rights of a Leasehold Mortgagee under Section 9.02, subject to any rights of a senior Leasehold Mortgagee, and further, that all of the provisions contained in this Lease with respect to Leasehold Mortgagees and their respective rights shall survive the termination of this Lease for such thirty (30) day period as shall be necessary to effectuate the rights granted to all Leasehold Mortgagees by the provisions of this Lease.

Section 12.13 SURRENDER: Upon the expiration of this Lease, Tenant shall surrender the C.U.P., the Equipment, the Existing Pipes, and the Medical Plant to Landlord, free and clear of liens and encumbrances, except those liens and encumbrances set forth in paragraphs 1-5 on Exhibit E and any liens or encumbrances caused or permitted by Landlord, in the condition required by Section 8.01, damage by fire, casualty, condemnation or the elements excepted, subject, however, to Tenant's restoration obligation provided herein, to Landlord's obligation to maintain and replace the underground fuel storage tanks serving Tenant's Facility, and Tenant's obligation to repair and maintain the Tenant's Facility as provided herein, and except as Tenant may have been prevented from maintaining the C.U.P., the Equipment and the Medical Plant by occupation thereof by any sovereign which shall have taken the temporary use thereof and shall then be in possession thereof. Upon such termination, Tenant shall also deliver to Landlord all papers and documents (including any licenses, authorizations or permits of any kind from any third party or any federal, state or local department or agency) which are then in Tenant's possession and may be necessary or appropriate for the proper operation and management of Tenant's Facility.

Upon the expiration of this Lease, Tenant shall at Landlord's option, which option Landlord shall exercise by written notice to Tenant not less than two (2) years prior to expiration of the Principal Term (or such later date which shall

be not later than 60 days after delivery of written notice by Tenant notifying Landlord of the expiration of its option contained herein), also surrender the Cogeneration Plant, the Additional Pipes and other improvements constructed by Tenant during the Term to Landlord, and shall be compensated for such improvements in an amount equal to their "book value" which shall be deemed to be an amount equal to their capitalized cost to Tenant less depreciation since their purchase calculated on a straight-line basis under generally accepted accounting principles. If Landlord does not timely notify Tenant of its intention to exercise the option contained herein, Tenant shall remove the equipment located in the Cogeneration Plant upon expiration of the Principal Term and shall not be obligated to restore any damage, resulting from that removal, to the buildings and other improvements erected by Tenant and which do not constitute portions of the Premises.

Landlord may, as an alternative to the obligation to purchase the improvements upon exercise of the option described in the immediately preceding paragraph, and subject to compliance with the notice provisions described in that paragraph applicable to Landlord's option to purchase, notify Tenant that it intends to extend the Lease Term for a period not to exceed two (2) years on mutually agreeable terms and conditions, subject to renewal or extension by Tenant of the Parallel Generation Agreement and Tenants's fuel supply agreements on favorable terms. At the end of that extension period, Tenant shall at Landlord's option, which option Landlord shall exercise by written notice to Tenant not less than one (1) year prior to expiration of the renewal term (or such later date which shall be not later than 60 days after delivery of written notice by Tenant notifying Landlord of the expiration of its option contained herein), surrender the Cogeneration Plant, the Additional Pipes and other improvements constructed by Tenant during the Term to Landlord, and shall be compensated for such improvements in an amount equal to their "book value" at the commencement of the renewal term as determined above, less an amount equal to the benefit to Tenant (to be mutually agreed by Landlord and Tenant) arising out of the extension of the Term.

Section 12.14 INSPECTION BY LANDLORD: Supplementing the provisions of Section 8.02 above, Tenant agrees to permit Landlord and the authorized representatives of Landlord, on reasonable notice, to enter the C.U.P. and the Medical Plant at all reasonable times during usual business hours for the purpose of inspecting the same or, in the case of the C.U.P. and the Medical Plant, exhibiting the same to any prospective purchaser.

Section 12.15 ATTORNMENT: Tenant covenants that it will include in any sublease hereafter made of a portion of the Premises a provision in form and substance substantially as follows: "The tenant covenants and agrees that if by reason of a default under any underlying lease (including an underlying lease

through which the landlord derives its leasehold estate in the premises), such underlying lease and the leasehold estate of the landlord in the premises demised hereby is terminated, providing notice has been given to the tenant and any leasehold mortgagee, the tenant will attorn to the then holder of the reversionary interest in the premises demised by this Lease or to anyone who shall succeed to the interest of the landlord or to the lessee of a new underlying lease entered into pursuant to the provisions of such underlying lease, and will recognize such holder and/or such lessee as the tenant's landlord of this lease. The tenant agrees to execute and deliver, at any time and from time to time, upon the request of the landlord or of the lessor under any such underlying lease, any instrument which may be necessary or appropriate to evidence such attornment. The tenant further waives the provision of any statute or rule of law now or hereafter in effect which may give or purport to give the tenant any right of election to terminate this lease or to surrender possession of the premises hereby in the event any proceeding is brought by the lessor under any underlying lease to terminate the same, and agrees that unless and until any such lessor, in connection with any such proceeding, shall elect to terminate this lease and the rights of the tenant hereunder, this lease shall not be affected in any way whatsoever by any such proceeding."

Section 12.16 Intentionally Omitted.

Section 12.17 FORCE MAJEURE is defined as any act, event, condition or occurrence beyond a party's reasonable control and without default or negligence in such party and which has a material adverse effect on the performance of the obligations under this Lease by such party and may include, but shall not be limited to the following:

(a) an act of God, epidemic, landslide, earthquake, flood or similar occurrence, an act of war, blockade, insurrection, riot, general arrest or restraint of government, civil disturbance or similar occurrence, or a strike or similar industrial labor action;

(b) an order and/or judgement of any federal, state or local court, administrative agency or governmental office or a body;

(c) adoption, promulgation, modification of or change in interpretation of any federal, state or local rule or law, regulation or ordinance after the date hereof;

(d) the failure of the community in which the Premises is situated or the appropriate federal, state or local agencies or public or private utilities having operational jurisdiction in the area of the location of the Premises to provide and maintain

and assure the maintenance of all utilities services, sewage and water lines to the Cogeneration Plant;

(e) explosions or fires; and

(f) any unforeseeable act or omission of any third party over whom the affected party has no direct or indirect control by contract or otherwise.

This Section shall not require settlement of any strike, walkout, lockout or other labor dispute on terms which, in the sole discretion of the party involved in the dispute, are contrary to its interest. It is understood and agreed that the settlement of strikes, walkouts and lockouts or other labor disputes shall be entirely within the discretion of the party having the difficulty. The Company will endeavor to use supervisory personnel to operate its facilities in the event of any such labor dispute and will use reasonable efforts to insert "no-strike" provisions in its labor contracts.

Any delay or failure of performance by Landlord or Tenant, other than the payment of money by Tenant, shall not constitute a default hereunder, if and to the extent such delays or failure of performance are caused by Force Majeure. If either party is affected by a Force Majeure event, such party shall, within five (5) business days of the date that the notifying party's performance is affected by a Force Majeure event, give notice to the other party stating the nature of the event, its anticipated duration and any action being taken to avoid or minimize its effect. The suspension of performance shall be of no greater scope and no longer duration than is required and the non-performing party shall use its best efforts to remedy its inability to perform. The obligation to pay money in a timely manner is absolute and shall not be subject to the Force Majeure provisions. Within a reasonable time following the date of termination of such Force Majeure, the party having invoked such Force Majeure as the cause for the delay shall submit to the other party reasonable proof of the nature of that delay.

ARTICLE 13 - TITLE TO THE IMPROVEMENTS

Section 13.01 TITLE TO THE IMPROVEMENTS: As between Landlord and Tenant, title to the C.U.P., the Equipment, the Existing Pipes and the Medical Plant shall belong to and remain with Landlord. Title to the Cogeneration Plant, the Additional Pipes and all other improvements constructed by Tenant during the Term shall belong to and remain with Tenant until the occurrence of any of the following events:

(a) the termination of this Lease following an Event of Default, subject to the right of any Leasehold Mortgagee or Institutional Lender subtenant, in which case title to the

Cogeneration Plant, the Additional Pipes and all other improvements constructed by Tenant shall remain with such Leasehold Mortgagee or Institutional Lender subtenant as the case may be; and

(b) expiration of this Lease and payment of all amounts due Tenant under Section 12.13.

ARTICLE 14 - CONDEMNATION AND ARBITRATION

Section 14.01 CONDEMNATION:

(a) If at any time during the Term there shall be a total taking or Constructive Total Taking, as hereinafter defined, of title to the Premises in any condemnation proceeding or through the exercise of the right or power of eminent domain (other than a temporary taking), this Lease shall terminate on the date of such taking and Rent shall be apportioned and paid only through the date of taking. To the extent that any Rent shall have been prepaid for any period beyond the date of taking, such prepaid Rent shall be refunded to Tenant.

(b) The term "Constructive Total Taking" shall mean a taking which is determined as provided below to be of such scope and magnitude as would prevent Tenant from conducting its business with the same degree of efficiency and economic return as that business was conducted prior to the taking. In addition to any other basis for the making of this determination, a Constructive Total Taking shall be deemed to have occurred, if, as a result of a taking, it becomes reasonably necessary for Tenant, in order to continue to conduct its business as prior to the taking as provided above, to replace the steam and gas turbines contained in the Cogeneration Plant.

(c) In any condemnation proceedings, Landlord and Tenant shall each be free to make claim against the condemning or taking authority for the amount of damage done to each of them as a result thereof and each of them shall be responsible for its own expenses with respect thereto. In connection with any such claims, Landlord shall be entitled to an award which represents compensation for the value of the Demised Land, the C.U.P., the Equipment, the Existing Pipes and the Medical Plant so taken, (but without any right to claim with regard to the Cogeneration Plant, the Additional Pipes and any other improvements). Tenant shall be entitled to an award which represents compensation for the value of the Cogeneration Plant and other improvements, and for the present value of the leasehold estate (computed as herein provided) provided, however, that:

(i) in determining the value of such improvements, the same shall be determined as

though title to such improvements were to remain permanently in Tenant without regard to the termination of this Lease as a result of the taking or in any other way; and

- (ii) the value of Tenant's leasehold estate, if any, shall be calculated on the basis of the present value of the difference by which the market value of Tenant's Facility for the balance of the Term exceeds the Rent reserved in this Lease. If, at the time of taking, Tenant shall be in default under this Lease but this Lease shall be in full force and effect, out of any condemnation award received by Tenant, Tenant shall pay over to Landlord any sums due from Tenant to Landlord at the time of such taking under this Lease, together with interest thereon to the date of payment.

(d) In the event of a taking not resulting in termination of this Lease under the provisions hereof, Landlord and Tenant, to the extent of their receipt of the condemnation proceeds, shall promptly proceed with due diligence to repair, restore, replace or rebuild the untaken part of the improvements to substantially their former condition or with such changes or alterations as either party may elect to make provided the same shall continue to constitute a complete, usable facility; provided, further, however, that in no event shall either party be required to expend in performing the foregoing work an amount in excess of the amount actually received by it from the condemning authority for this purpose. In the event of any alteration, repair, replacement or rebuilding of the untaken portions of the improvements partially taken, any construction plans shall first be approved by Landlord, which approval Landlord covenants not to unreasonably withhold or delay, before such reconstruction or rebuilding shall take place.

(e) In the event of a taking not resulting in termination under the provisions hereof, the Lease shall terminate only as to the portion of the Premises so taken, and Rent payable from the date following the date of taking shall not be reduced.

(f) If, at any time during the Term, the whole or any part of the improvements or of Tenant's leasehold estate under this Lease shall be taken in condemnation proceedings or by any right of eminent domain for temporary use or occupancy, Tenant's obligation to pay the full amount of Rent shall continue unabated and, except only to the extent that Tenant may be prevented from so doing pursuant to the terms of the order of the condemning authority, Tenant shall perform and observe all of the other

terms, covenants, conditions and obligations hereof upon the part of Tenant to be performed and observed, as though such taking had not occurred. In the event of any such taking, Tenant shall be entitled to receive the entire amount of the condemnation or eminent domain proceeds for such taking, whether paid by way of damages, rent or otherwise, unless such period of temporary use or occupancy shall extend beyond the termination of this Lease, in which case the condemnation or eminent domain proceeds shall be apportioned between Landlord and Tenant as of the date of termination of this Lease. Tenant covenants that, upon the expiration of any such period of temporary use or occupancy during the Term, it will, at its cost and expense, to the extent economically feasible to do so, restore the improvements as nearly as may be reasonably possible to their condition immediately prior to such taking subject to receipt by either party of sufficient condemnation or eminent domain proceeds for their respective restoration responsibilities (except that any work required to be done to prevent injury to persons or property shall be done promptly so as to avoid such injury without awaiting payment from the condemning authority).

(g) In any condemnation proceeding, Landlord and Tenant shall request the court to separately set forth the values used in arriving at the amounts to be awarded to the respective recipients under the provisions of the various subsections of this Article 14 and to separately set forth the amount of compensation for restoration of the improvements as provided herein. In the event that the court shall fail to do so or shall refuse to do so, and if Landlord and Tenant cannot agree with respect to such separate statement or separate amounts within thirty (30) days after final award or awards shall have been fixed and determined, the matter shall be submitted to arbitration and determined in accordance with the provisions hereof (including Section 14.02). The parties agree that they will cooperate in applying for and in prosecuting any and all claims for any awards in any such taking or condemnation proceedings.

(h) To the extent that Tenant shall assign to any Leasehold Mortgagee any condemnation or eminent domain proceeds or portion thereof to which Tenant shall or may become entitled under the provisions of this Article 14, Landlord agrees that it will recognize the validity of such assignment and will consent and hereby does consent to the payment of such condemnation or eminent domain proceeds to such assignee as such assignee's interest may appear; provided, however, that, at the time of such taking, this Lease shall be in full force and effect and provided further that, to the extent that Tenant shall be in default under the terms of this Lease at the time of the taking in the payment of Rent, Landlord shall have the right to withhold from such assignee any sum or sums equal to the amounts as to which Tenant is in default, and provided further that Tenant shall not

otherwise be obligated to restore any portion of Tenant's Facility under this Article 14.

(i) Landlord and Tenant each have the right to participate in any condemnation proceeding for the purpose of protecting their respective rights hereunder and, in this connection, specifically and without limitation, shall have the right (i) to introduce evidence independently to establish their respective rights to recovery, (ii) to participate in and approve any settlement in any condemnation proceeding with respect to their respective rights and (iii) at their own cost and expense, to prosecute any appeals from any determinations made with respect to their respective rights in connection with the condemnation proceedings.

Section 14.02 ARBITRATION

(a) In such cases where this Lease provides for the determination of any dispute by arbitration, such dispute shall be determined by binding arbitration before the American Arbitration Association in the County of Nassau, State of New York, by a panel of three arbitrators, one chosen by each of the parties and the third chosen by the other two arbitrators, and otherwise in accordance with commercial arbitration rules then obtaining of the Association provided, however, that the arbitrators shall have jurisdiction and authority only to interpret and determine compliance with the provisions of this Lease insofar as shall be necessary in the determination of the issues properly submitted to them. The arbitrators shall not have jurisdiction to alter, amend, cancel or rescind any provision of this Lease. If such Association shall not then be in existence, such other organization, if any, as shall then have become the successor of such Association or, if there shall be no successor, in accordance with the then prevailing provisions of the laws of the State of New York relating to arbitration, and the parties hereto or the New York State Supreme Court shall appoint another organization, performing the same or a similar function as the Association, before which such arbitration shall be had. Judgment upon an arbitration award may be entered in any court having jurisdiction over the parties and the subject matter of the dispute.

(b) The fees and the expenses incident to the arbitration proceedings shall be borne equally by the parties. The fees and expenses of counsel for the respective parties and of witnesses shall be paid by the respective party engaging such counsel or calling such witnesses.

ARTICLE 15 - LAWS, LEGAL ACTION AND NOTICES

Section 15.01 NOTICES TO PARTIES HERETO:

Except where otherwise provided, all notices, demands, requests, consents, plans, specifications and other instruments under this Lease shall be in writing to be effective and shall be considered properly given and received by the party to whom addressed if sent by United States registered or certified mail, return receipt requested, or by personal service, addressed or delivered,

(a) if to Tenant, at the address set forth on the first page hereof and at the address of the C.U.P., or at such other address as Tenant shall hereafter have furnished to Landlord in writing, with a copy to:

Milgrim, Thomajan & Lee P.C., 53 Wall Street,
New York New York 10005-2815
Attention: Raymond F. Steckel, Esq.; and

Trigen Energy Corp.
1 Water Street
White Plains, New York 10601

Attention: General Counsel

(b) if to Landlord, at the address set forth on the first page hereof and at the address, or at such other address as Landlord shall have furnished to Tenant in writing, with copies to:

Department of General Services
County Executive Building
1 West Street
Mineola, New York 11501
Attention: Commissioner; and

Department of Public Works
County Executive Building
1 West Street
Mineola, New York 11501
Attention: Commissioner; and

County Attorney
County Executive Building
1 West Street
Mineola, New York 11501

Attention: County Attorney

Executive Director
Nassau County Medical Center
1201 Hempstead Turnpike
East Meadow, New York
11554

Notice shall be deemed given hereunder on the date of personal service or five (5) days after the date of its postmark.

Section 15.02 COMPLIANCE WITH LAW: Subject to the provisions of Section 15.07, Tenant, at its cost and expense, shall comply with all federal, state, county and municipal statutes, laws, rules, orders, regulations and ordinances affecting Tenant's Facility and the use thereof, including specifically without limitation the affidavit of John Martorella, Vice President of Nassau District Energy Corp., sworn to the 5th day of January, 1990 and submitted to the Town of Hempstead, in respect to the percentage utilization of the project for municipal purposes, which affidavit has been relied upon by the Town of Hempstead, and with all other rules, orders, and regulations which must be complied with by Tenant in order to keep in full force and effect all necessary operating licenses, permits and all insurance required to be kept in force by Tenant. Tenant shall comply with the requirements of all policies of public liability, fire and other insurance at any time in force and effect with respect to Tenant's Facility.

Section 15.03 CUMULATIVE REMEDIES - NO WAIVER: The specified remedies to which either party may resort under the terms of this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which such party may be lawfully entitled in case of any breach or threatened breach by the other of any provisions of this Lease. The failure of either party to insist in any one or more cases upon the strict performance of any of the covenants of this Lease or to exercise any option herein contained shall not be construed as a waiver or a relinquishment for the future of such covenant or option. A receipt by Landlord of Rent with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach, and no waiver by either party of any provision of this Lease shall be deemed to have been made unless expressed in writing and signed by the party against whom waiver is asserted. In addition to the other remedies in this Lease provided, either party shall be entitled to the restraint by injunction of the violation, or attempted or threatened violation, of any of the covenants, conditions or provisions of this Lease.

Section 15.04 CERTIFICATES: Either party shall, without charge, at any time and from time to time, within ten (10) days after written request of the other, certify by written instrument duly executed and acknowledged to such party, any Leasehold Mortgagee or purchaser, or proposed Leasehold Mortgagee or proposed purchaser, or any other person, firm or corporation specified in such request:

(a) as to whether this Lease has been supplemented or amended, and, if so, the substance and manner of such supplement or amendment;

(b) as to the validity and force and effect of this Lease;

(c) as to the existence of any default hereunder;

(d) as to the existence of any offsets, counterclaims or defenses thereto on the part of the other party;

(e) as to the commencement and expiration dates of the Term;

(f) as to any other matters as may be reasonably requested; and

(g) as to Tenant only, the names of any Leasehold Mortgagee or subtenant.

Any such certificate may be relied upon by the party requesting the same and by any other person, firm or corporation to whom the same may be delivered, but such certificate may not extend to any default as to which the party executing the certificate shall have had no notice or actual knowledge.

Section 15.05 GOVERNING LAW: This Lease and the performance thereof shall be governed, interpreted, construed and regulated by the laws of the State of New York.

Section 15.06 PARTIAL INVALIDITY: If any term, covenant, condition or provisions of this Lease or the application thereof to any person or circumstance shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

Section 15.07 CONTEST OF LAW, ORDINANCE, ETC.: Tenant shall have the right to contest by appropriate legal proceedings, in the name of Tenant and without cost or expense to Landlord, the validity or application of any law, ordinance, rule, order, regulation or requirement of the nature herein referred to. If by the terms of any such law, ordinance, order, rule, regulation or requirement, compliance therewith pending the prosecution of any such proceeding may legally be held in abeyance without the incurrence of a lien, charge or liability of any kind against the improvements or Landlord's interest or Tenant's leasehold interest therein, and without subjecting Tenant or Landlord to any liability, civil or criminal, of whatever nature for failure

to so comply therewith, and without risk of shutdown or losing the immediate availability of the C.U.P or the Medical Plant to provide Thermal Energy, Tenant may postpone compliance therewith until the final determination of any proceedings, provided that all such proceedings shall be prosecuted with all due diligence and dispatch. If any lien or charge is incurred by reason of noncompliance, Tenant may nevertheless make the contest aforesaid and delay compliance, provided that Tenant furnishes to Landlord security, reasonably satisfactory to Landlord, against any loss or injury by reason of such noncompliance or delay and prosecutes such contest with due diligence. Landlord agrees, solely in its capacity as Landlord, to execute and deliver any papers which may be necessary or proper to permit Tenant to contest the validity or application of any such law, ordinance, order, rule, regulation or requirement, but nothing contained herein shall be deemed to constitute an acquiescence to the relief requested or a concession by Landlord that Tenant's contest is meritorious. Landlord shall not be required to be, nor will it be, a party to any such proceedings as a petitioner.

ARTICLE 16 - MISCELLANEOUS PROVISIONS

Section 16.01 NO REPRESENTATIONS: Landlord and Landlord's agents have not made any representations or promises with respect to the Premises, except as is herein expressly set forth.

Section 16.02 ENTIRE AGREEMENT: This Lease and the Master Energy Agreement contain the entire agreement between the parties, and may not be changed, modified or discharged, in whole or in part, unless pursuant to a written agreement executed by both Landlord and Tenant.

Section 16.03 QUIET ENJOYMENT: If and so long as the Tenant pays the Rent and keeps, observes and performs each and every term of this Lease on the part of Tenant to be kept, observed and performed, Tenant shall peaceably and quietly enjoy the Premises throughout the Term without hinderance by Landlord or any person claiming through or under Landlord, subject to the terms of this Lease.

Section 16.04 BROKER: Each party represents and warrants to the other that it has not dealt with any person acting as a broker, whether licensed or unlicensed in connection with this transaction and each party indemnifies the other against any loss, cost damage or expense resulting from a breach of this representation on its part.

Section 16.05 COUNTERPARTS: This Lease may be executed in several counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

Section 16.06 PARTIES: Except as herein otherwise expressly provided, covenants, conditions and agreements contained in this Lease shall bind and inure to the benefit of Landlord and Tenant and their respective heirs, successors, administrators and assigns, and for purposes hereof reference to the County or the Town of Hempstead shall apply to any governmental successor to the County or the Town of Hempstead.

Section 16.07 SHORT FORM LEASE: At the request of either party, a short form lease or memorandum of lease approved and executed by both parties shall be recorded in the Nassau County Clerk's Office.

Section 16.08 SCHEDULES AND EXHIBITS: All schedules and exhibits annexed to this Lease are a part of this Lease and the material contained therein shall be deemed to be and construed and interpreted as part of this Lease as fully as if the same were repeated herein.

Section 16.09 INTERPRETATION: Words of any gender in this Lease shall be held to include any other gender and words in the singular number shall be held to include the plural as the context shall require. Section headings here are for reference and convenience only and shall not enter into the interpretation hereof.

IN WITNESS WHEREOF, Tenant has executed this Lease as of this 17 day of JANUARY, 1990, and the County of Nassau has executed this Lease as of the 2ND day of FEBRUARY, 1990.

NASSAU DISTRICT ENERGY CORP.

By: John A. Marshall

COUNTY OF NASSAU, Landlord

By: Wanda C. Rogers

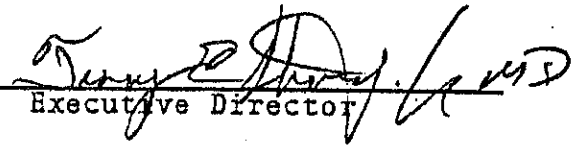
County Executive

(Signatures continue next page)

(Signatures continue from previous page)

As to those Sections of the Lease
pertaining to the Medical Plant
only:

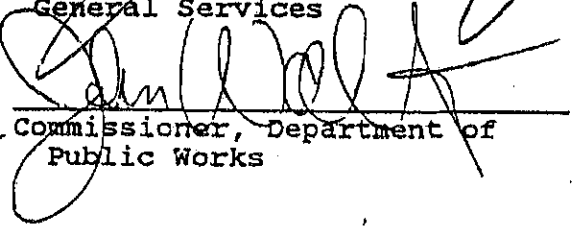
NASSAU COUNTY MEDICAL CENTER

By: 
Executive Director

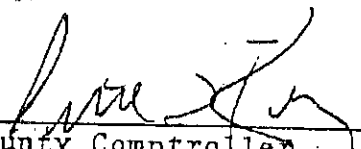
APPROVED:


Deputy County Attorney


Commissioner, Department of
General Services


for Commissioner, Department of
Public Works

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County Comptroller

APPROVED:


INSURANCE SECTION

REAL ESTATE, INSURANCE AND
WORKERS' COMPENSATION

STATE OF NEW YORK)
)
COUNTY OF NASSAU) ss.:

On this _____ day of _____, 1990 before me personally appeared THOMAS S. GULLOTTA, County Executive of the County of Nassau, the municipal corporation described herein, and who executed the foregoing instrument, to me known and known to me to be such County Executive and he being by me duly sworn, did depose and say: that he is the County Executive of Nassau County; and that he executed the same as such County Executive for the purposes therein mentioned.

NOTARY PUBLIC

STATE OF NEW YORK)
)
COUNTY OF NASSAU) ss.:

On this 2ND day of February, 1990, before me personally appeared Santa C. Rozzi, Deputy County Executive of the County of Nassau, the municipal corporation described herein and who executed the foregoing instrument, to me known and known to me to be such Deputy County Executive, and she by me being duly sworn, did depose and say: that she is the Deputy County Executive of the County of Nassau and that pursuant to Section 205 of the County Government Law of Nassau County executed the same as such Deputy County Executive for the purposes therein mentioned.




NOTARY PUBLIC

STATE OF NEW YORK)
)
COUNTY OF WESTCHESTER) ss.:

DANIEL J. McCLOY
NOTARY PUBLIC, State of New York
No. 30-4795436
Qualified in Nassau County
Commission Expires March 30, 1990
NCS

On this 17th day of January, 1990 before me personally came John Martorella to me known, who being by me duly sworn, did depose and say: that he resides at 1 Birch Lane, Valley Stream, New York, 11581 and that he is the vice president of Nassau District Energy Corp. the corporation described in and which executed the above agreement; and that he signed his name thereto by order of its Board of Directors.



NOTARY PUBLIC

EUGENE E. MURPHY
Notary Public, State of New York
No. 60-8087951
Qualified in Westchester County
Commission Expires March 30, 1990
JN
NCS

RESOLUTION TO THE CORPORATE MINUTES

The undersigned Secretary hereby certifies that the following Resolution was duly adopted by the Board of Directors of the corporation known as NASSAU DISTRICT ENERGY CORP., on January 17, 1990 and has not been modified or rescinded and is in full force and effect as of the date hereof.

RESOLVED that the resolution heretofore adopted by the Board of Directors of the Corporation on January 9, 1990 is hereby rescinded and the following substituted in its place and stead:

RESOLVED, that John R. Martorella, Vice President, and Michael Weiser, Treasurer, of this corporation be, and each of them individually are, hereby authorized to execute, on behalf of this corporation: (a) a Lease Agreement and a First Amendment thereto with the County of Nassau affecting premises owned by the County of Nassau and located at 185 Charles Lindbergh Boulevard, Uniondale, New York and various other locations in the County of Nassau as described in section 2.01 and Exhibits A through I of the Lease Agreement, (b) a Master Energy Agreement and a First Amendment thereto with the County of Nassau, as Customer, pursuant to which the corporation shall sell and deliver to the County of Nassau thermal energy through the mediums of steam, hot water and chilled water to provide heating and cooling of certain buildings identified in Schedule A to the Master Energy Agreement and (c) an Easement Agreement with the County of Nassau as grantor and the corporation as grantee, pursuant to which the corporation will receive the right to construct certain pipelines over Nassau County property, each of said Agreements being in the form submitted to this Board, with such changes, additions and/or deletions as either of the aforesaid officers of this corporation executing said Agreements shall agree to, after consultation with counsel.

Eugene E. Murphy
Secretary

Sworn to before me this
17th day of January, 1990.

Marie A. Smith
Notary Public
MARIE A. SMITH
Notary Public, State of New York
No. 41-4714655
Qualified in Queens County
Commission Expires February 28, 1991

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Dra

EXHIBIT A-1

Description of the Construction Term Land

EXHIBIT A-2

Description of the Principal Term Land

EXHIBIT B'

Description of the Equipment

EXHIBIT B -- CENTRAL UTILITIES PLANT

Page 1

FUEL OIL SYSTEM

EQUIPMENT	DESCRIPTION	MANUFACTURER	MODEL NO.	CAPACITY	HORSEPOWER	YEAR INSTALLED
Oil Transfer P-#1	Horizontal Screw	Delaval	S 401F		10	1974
Oil Transfer P-#2	Horizontal Screw	Delaval	S 401F		10	1974
Oil Booster P-#20	Horizontal Screw	Delaval	S 401F		15	1971
Oil Booster P-#21	Horizontal Screw	Delaval	S 401F		15	1971
Hot Water Circ. Co:						
Oil Tanks P-24	Vertical Single Stage	Thruash	TV	44 gpm	1.5	1976
Oil Tanks P-25	Vertical Single Stage	Thruash	TV	47 gpm	1.5	1976
Oil Tanks P-26	Vertical Single Stage	Thruash	TV	44 gpm	1.5	1976
Oil Tanks P-27	Vertical Single Stage	Thruash	TV	44 gpm	1.5	1976
Hot Water Heat Exchange	Horizontal Shell/Tube	Kam Products Corp.	E168			1976
#4 Oil Heat Exchange #1	Horizontal Shell/Tube	Yula Corp.	USD 2F 84A			1976
#4 Oil Heat Exchange #2	Horizontal Shell/Tube	Yula Corp.	USD 2F 84A			1976
#4 Oil, Tank #1	Diag. x Length			20 M		1971
#4 Oil, Tank #2	10' x 10'			20 M		1971
#4 Oil, Tank #3	10' x 10'			20 M		1971
#4 Oil, Tank #4	12' x 47'			40 M		1974
#4 Oil, Tank #5	12' x 47'			40 M		1974
#4 Oil, Tank #6	12' x 47'			40 M		1974
#4 Oil, Tank #7	12' x 47'			40 M		1974
#4 Oil, Tank #8	12' x 47'			40 M		1974
#4 Oil, Tank #9	12' x 47'			40 M		1974
#4 Oil, Tank #10	12' x 47'			40 M		1974
#4 Oil, Tank #11	12' x 47'			40 M		1974
#4 Oil, Tank #12	12' x 47'			40 M		1974
Diesel Oil Tank				1 M		1971

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EXHIBIT B -- CENTRAL UTILITIES PLANT

Page 2

MAJOR EQUIPMENT LIST

EQUIPMENT	DESCRIPTION	MANUFACTURER	MODEL NO.	CAPACITY	HORSEPOWER	INSTALLED
Boiler No. 1	250 psig Steam Boiler No. 4 Oil & Gas Fired	Murray (Babcock-Wilcox)		Boilers=90,000 lbs./hr. Burner=50,000 lbs./hr.		1971
Boiler No. 2	250 psig Steam Boiler No. 4 Oil & Gas Fired	Murray (Babcock-Wilcox)		Boilers=90,000 lbs./hr. Burner=50,000 lbs./hr.		1973
Boiler No. 3	250 psig Steam Boiler No. 4 Oil & Gas Fired	Murray (Babcock-Wilcox)		Boilers=110,000 lbs./hr. Burner=110,000 lbs./hr.		1976
Chiller No. 1	Steam Turbine Driven Centrifugal	York, with Murray Turbine		2,500 tons	2,312 HP Turbine	1971
Chiller No. 2	Steam Turbine Driven Centrifugal	York, with Murray Turbine		2,500 tons	2,312 HP Turbine	1971
Chiller No. 3	Steam Turbine Driven Centrifugal	York, with Murray Turbine		3,000 tons	2,707 HP Turbine	1976
Cooling Tower No. 1	Forced Draft	Lilly-Hoffman		7,000 gpm	75/100 Motor HP	1971
Cooling Tower No. 2	Forced Draft	Lilly-Hoffman		7,000 gpm	75/100 Motor HP	1971
Cooling Tower No. 3	Forced Draft	Lilly-Hoffman		7,000 gpm	75/100 Motor HP	1971
Cooling Tower No. 4	Forced Draft	Lilly-Hoffman		7,000 gpm	75/100 Motor HP	1971
Cooling Tower No. 5	Forced Draft	Lilly-Hoffman		9,000 gpm	M/A	1976
Cooling Tower No. 6	Forced Draft	Lilly-Hoffman		9,000 gpm	M/A	1976
Cond. Water Pump No. 1	Vertical-Well Type	Allis-Chalmers	VT	7,500 gpm @ 40-ft.	250	1971
Cond. Water Pump No. 2	Vertical-Well Type	Allis-Chalmers	VT	7,500 gpm @ 40-ft.	250	1971
Cond. Water Pump No. 3	Vertical-Well Type	Allis-Chalmers	VT	7,500 gpm @ 40-ft.	250	1971
Cond. Water Pump No. 4	Vertical-Well Type	Allis-Chalmers	VT	9,500 gpm	350	1976
Chilled Water Pump #1	Horizontal-Split Case	Allis-Chalmers	14x10x20	4,000 gpm @ 250-ft.	350	1971
Chilled Water Pump #2	Horizontal-Split Case	Allis-Chalmers	14x10x20	4,000 gpm @ 250-ft.	350	1971
Chilled Water Pump #3	Horizontal-Split Case	Allis-Chalmers	14x10x20	4,000 gpm @ 250-ft.	350	1971
Chilled Water Pump #4	Horizontal-Split Case	Allis-Chalmers	14x16x20	4,500 gpm @ 275-ft.	450	1976
HTHW Pump No. 1	Turbine Driven-End Suction	Curling/Wilson Snyder		1,900 gpm		1971
HTHW Pump No. 2	Motor Driven-End Suction	Curling		1,900 gpm	200	1971
HTHW Pump No. 3	Motor Driven-End Suction	Curling		1,900 gpm	200	1971

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MAJOR EQUIPMENT LIST

EQUIPMENT	DESCRIPTION	MANUFACTURER	MODEL NO.	CAPACITY	HORSEPOWER	INSTALLED
Boiler Feedwater Pump No. 1	2-Stage Horizontal Split Case	Weirman	1-1/2 J0	80 gpm @ 700-ft.	60	1971
Boiler Feedwater Pump No. 2	2-Stage Horizontal Split Case	Weirman	1-1/2 J0	80 gpm @ 700-ft.	60	1971
Boiler Feedwater Pump No. 3	2-Stage Horizontal Split Case	Weirman	1-1/2 J0	80 gpm @ 700-ft.	60	1971
Boiler Feedwater Pump No. 4	End Suction	Dean Brothers	2x3x1 or 4	280 gpm @ 340-ft.	60	1984
Boiler Feedwater Pump No. 5	End Suction	Dean Brothers	2x3x1 or 4	280 gpm @ 340-ft.	60	1984

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EXHIBIT B -- CENTRAL UTILITIES PLANT

Page 4

AIR SYSTEM

EQUIPMENT	DESCRIPTION	MANUFACTURER	MODEL NO.	CAPACITY	HORSEPOWER	INSTALLED
#1 Air Dryer for Compressed Air System	Refrigerant Type R-12	Arrow Pneumatics	A-75		3/4	1971
#1 Air Compressor		Quincy	35016	6 x 3-1/4 x 3-1/2	7.5	1971
#2 Air Compressor		Quincy	35016	6 x 3-1/4 x 3-1/2	7.5	1971

CASCADE HEATING SYSTEM

EQUIPMENT	DESCRIPTION	MANUFACTURER	MODEL NO.	CAPACITY	HORSEPOWER	INSTALLED
2 Identical Units		Cochran Division Czame Company	1484-70	250 pairs; 2,200 gpm 120 mm ² /hr.		1971

ELECTRIC SWITCHGEAR

EQUIPMENT	DESCRIPTION	MANUFACTURER	SERIAL NO.	CAPACITY	HORSEPOWER	INSTALLED
1A Feeder Substation	GE Type-AH 13.8-500-6H	General Electric	0224A8293-0KV	rated cap. amp. 1200		1971
2A Feeder Substation	GE Type-AH 13.8-500-6H	General Electric	0224A8293-0KV	rated cap. amp. 1200		1971
3B Feeder Substation	GE Type-AH 13.8-500-7H	General Electric	269A5240-0KV	rated cap. amp. 1200		1976
4B Feeder Substation	GE Type-AH 13.8-500-7H	General Electric	269A5240-0KV	rated cap. amp. 1200		1976

ELECTRIC TRANSFORMERS

EQUIPMENT	DESCRIPTION	MANUFACTURER	SERIAL NO.	CAPACITY	HORSEPOWER	INSTALLED
ALL MCC ARE: Motor Control Centers Model - General Electric 7700 Line Control Center						
1A Transformer	#G-859942A - Dry Type	General Electric		3 phase; 13.8-480 Y/277 volts		
2A Transformer	#G-859942B - Dry Type	General Electric		3 phase; 13.8-480 Y/277 volts		
3B Transformer	#H-885677A - Dry Type	General Electric		3 phase; 13.2-480 Y/277 volts		
4B Transformer	#H885677B - Dry Type	General Electric		3 phase; 13.2-480 Y/277 volts		

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EXHIBIT B -- CENTRAL UTILITIES PLANT

Page 5

AUXILIARY TRANSFORMERS:

EQUIPMENT	DESCRIPTION	MANUFACTURER	SERIAL NO.	CAPACITY	HORSEPOWER	INSTALLED
22.5 KVA Transformer	Dry Type	General Electric		480 - 277/110		
45 KVA Transformer	Dry Type	General Electric		480 - 277/110		
45 KVA Transformer	Dry Type	General Electric		480 - 277/110		
Emergency Lighting	Synchronous G/M	Solar Generator		166007.27c1M		

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CENTRAL UTILITIES PLANT

TOOL INVENTORY

(as of April 2nd)

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	Quantity	Description
PIPE WRENCHES		
	2	14"
	3	18"
	2	24"
	2	36"
	1	48"
	1	Hex Nut Wrench
	2	Pipe Vises
	1	Portable Pipe Threader and Support
	Full Set	Pipe Dies
	3	Manual Pipe Threaders
	4	Pipe Cutters (2-4 wheel)
	4	Pipe Taps (N.P.T.) 1-1/4", 3/8", 3/4", 1"
WRENCHES		
OPEN END	1	1-1/6" to 1-1/2" and 1-9/16"
	3	Crow Foot 1", 13/16", 3/4"
BOX	1	1/2" to 1-1/2"
	missing	9/16", 3/4", 13/16", 15/16"
COMBINATION	1	1-3/4", 1-1/4", 1-1/16", 1-3/8", 1", 1-1/8"
	Full Set	5/16" to 3/4"
	missing	5/8", 3/8"
	1	Refrigeration Wrench 1/4"
	2 Sets	1-13/16" to 1-5/8", missing 1"
	1	Slugging 2-3/8" to 1-1/4"
	2	Strap Wrenches
	3	Crescent 3-12", 2-24"
	1	1" Drive Air Wrench
	1	175 lb. Torque Wrench 1/2" Drive
SOCKETS		
	2 Sets	1/2" Drive 3/8" to 1-5/16"
	1	Ratchet and Bit Set
	2 Sets	Impact 7/8" to 2-7/8" - 1" Drive
	1	1-1/16" to 1-7/8" - 3/4" Drive
	1 Set	3/4" Drive 1" to 2"
	1	1" Drive Ratchet - 36" Length
	3	1" Drive Sockets 2-3/8", 2-1/8", 1-13/16"
	1	Cutters (Pliers)
BLOCK AND CHAINS		
	2	1 Ton (1-30 Ft., 1-10 Ft.)
	1	1-1/2 Ton 30 Ft.

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SLINGS

2	1/2" x 4'
1	5/8" x 6'
1	1/2" x 10'
1	5/8" x 3'
2	1/2" x 3'

SHACKLES

5

HAMMERS

2	Sledge
5	Ball Peen
1	Claw
1	Rubber Mallet

SCREW DRIVERS

4	Phillips
6	Flat
2	Vise Grip Pliers
3	Pliers
1	Needle Nose Plier
2	Channel Lock 1-Large, 1-Small
1	4-Piece retaining ring plier set
Internal	1-18", 1-7", 1-4"
External	1-7", 1-4"
2	Tin Snip, 1-large, 1-small
2	Angle Snips
2	Nut Splitters
1	C-Clamp
1 Set	T Handle Hex Keys 3/8" to 3/32"
missing	3/32" and 3/8"
2	Flaring Tools Sets (Incomplete)
2 Sets	"L" Shape Allen Wrench
2	Callipers 1-Internal, 1-External
3	Scrappers
1	Hose Nozzle
1	6" Tape Measure
2	6" Folding Rulers
1	3' Yard Ruler
5	Flange Spreaders
1	Cable Cutter
3	Bolt Extractor Sets (1-complete)
1	Drill Bit Set 1/4" to 5/8"
2	Drill Sets 1/16" to 1/2" (Incomplete)
1	Dial Indicator Set
1	Hand Saw (Wood)
2	Tube Cutters
1	6" Vise
1	4" Vise
1 Set	Snap-On Pullers (Incomplete)
2	Funnels
2	Hack Saws
10	Hack Saw Blades 18 teeth/inch

5 Hack Saw Blades 32 teeth/Inch
 1 Crow Bar
 3 Half Round Files
 1 Round File
 10 Flat Files
 2 Wire Brushes
 1 Snap-On TR-20, 1-TR-257
 3 Grease Guns
 1 Rockwell Grease Gun
 2 Universal Fuse Puller, 1 with 6" handle
 3 Squeegee
 1 Red Devil Air Blower
 1 24" Level
 1 Refrigeration Manifold
 1 Hold Saw Set (Incomplete)
 2 Greenfield Tap and Die Sets (1-Incomplete)
 1 Halide Gas Leak Detector
 2 Oil Tank Tape Measures
 1 25' Air Hoses 1-1/4"
 2 Bench Grinders (need face shield, new stones and wire wheels)
 2 3-Leg Side Hammer Pullers
 1 3/4" B & D Drill
 1 3/8" Hammer Drill with Percussion Bits 1/4" to 5/8"
 2 3/8" Drills
 1 Porto Blast Unit (Damaged Hose)
 1 55 Gallon Barrel Truck
 1 Elliott Gun for Tubes
 1 Mite-E-Lift 1500 lb. capacity (poor condition)
 1 Refrigeration Pump Down Unit
 1 Snapper Tractor, Snow Blow, Grass Cutter and Utility Trailer
 2 4' Wood Ladders
 2 6' Wood Ladders
 4 8' Wood Ladders
 3 10' Wood Ladders
 2 6' Metal Ladders
 1 8' Metal Ladder
 1 Extension Ladder 20'
 3 Electrical Extension Cords
 1 Pioneer Photo Tach.
 1 Photo-electric Tach
 1 Vibration Meter
 2 Amprobe Meters 1-large, 1-small
 3 Volt and Microammeters
 1 300 HV Tic Tracker
 1 Simpson Meter
 1 Amp. and volt probe Model VT-100
 1 Combustion Efficiency Computer Model 842
 1 Bacharach Fyrite Test Kit
 4 Brooms; 1-corn, 2-36", 1-24"
 1 Shovel
 3 Paint Roller Handles
 8 Paint Rollers
 1 1-1/2" x 25 yds. Emery Cloth
 1 180 grit oxide mesh
 1 1/4" x 100' rope
 2 mops
 1 Bucket
 1 Arch Punch Set 1/4" to 1" (2-missing 1/2" and 3/8")

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3	Wet and Dry Vacuums (no attachments)
1	3/4 HP portable air compressor with 25' hose
1	1 HP air compressor
2	1 HP Johnson floor machine
1	1/3 HP vacuum pump
1	Ridgid "500" power snake
1	460 volt electric hoist - 1 ton
1	110 volt Hoist - 1 ton in Maintenance Room
1	Ream-A-Matic for Boiler Tubes
1	Hydraulic Puller
1	Drop Light
1	5 HP water pump gas (no hoses)
1	Cutting Torch (need goggles)
1	15" Drill Press
1	25 Ton Press
1	3' x 6' Flat Bed Cart
4	Soldering Irons 2-550 watt, 1-160 watt 1-260 watt
1	Makita High Speed Grinder
1	B & D Circular Saw 7-1/4"
1	Mechanics Lamp
5	Flashlights (4-not working)
7	Rolls Electrical Tape 3/4" x 65'
1	1-1/2" roll electrical tape
1	Roll Duct Tape
4	Rolls Teflon Tape 2-3/4", 2-1"
3	75 Watt Light Bulbs

EXHIBIT C

Description of the Existing Pipes

[Intentionally Omitted]

EXHIBIT D

Description of the Medical Plant

J.R. 1610.3
Exhibit D

July 9, 1990

N.C.M.C. P.M. Committee

Re: N.C.M.C. Major Equipment List (Exhibit D)

The following noted equipment is not included in "exhibit D", as referred under Art.8 "Repairs and Maintenance", of the Lease Agreement between Nassau County and Nassau District Energy Corporation.

1. Cooling Towers, Fans and Water, Chemicals, Electric.
2. Emergency Generators, Electrical Switchgear, Generator aux. Systems.
3. Fuel Tanks, Tank Heaters. *None*
4. Heat Exchanger(s), Pump(s) valves, etc. Serving Staff Housing. ✓
5. Heat Exchanger(s), Pump(s) valves, etc. Serving Greenhouse. ✓
6. Domestic Hot Water Tanks. ✓
7. Chilled Water, Steam, Condensate Distribution piping, valves, etc. to and from the physical boundary of the boiler plant, (except for preventive maintenance as related to water treatment).
8. Incinerator Equipment and Facility.

EXHIBIT D -- NASSAU COUNTY MEDICAL CENTER

Page 1

MAJOR EQUIPMENT LIST

EQUIPMENT	DESCRIPTION	MANUFACTURER	MODEL NO.	CAPACITY	HORSEPOWER	YEAR INSTALLED
Boiler No. 1	Watertube	Erie City		70,000-lbs./hr. @ 150 psig		1973
Boiler No. 2	Watertube	Erie City		70,000-lbs./hr. @ 150 psig		1973
Boiler No. 3	Watertube	Erie City		70,000-lbs./hr. @ 150 psig		1973
Boiler No. 4	Watertube	Erie City		70,000-lbs./hr. @ 150 psig		1973
Boiler No. 1 Combination Air Fan	Dual-Shaft Drive (Turbine & Motor Driven)	Clarage Fan (Turbine - Worthington)	Type AFI		50	1973
Boiler No. 2 Combination Air Fan	Dual-Shaft Drive (Turbine & Motor Driven)	Clarage Fan (Turbine - Worthington)	Type AFI		50	1973
Boiler No. 3 Combination Air Fan	Dual-Shaft Drive (Turbine & Motor Driven)	Clarage Fan (Turbine - Worthington)	Type AFI		50	1973
Boiler No. 4 Combination Air Fan	Dual-Shaft Drive (Turbine & Motor Driven)	Clarage Fan (Turbine - Worthington)	Type AFI		50	1973
Boiler Feedwater Pump No. 1	2-Stage Horizontal Split Case (Motor Driven)	Ingersoll-Rand	3GT	420 gpm @ 500 Ft.	100	1973
Boiler Feedwater Pump No. 2	2-Stage Horizontal Split Case (Motor Driven)	Ingersoll-Rand (Turbine - Worthington)	3GT	420 gpm @ 500 Ft.		1973
Boiler Feedwater Pump No. 3	2-Stage Horizontal Split Case (Motor Driven)	Ingersoll-Rand (Turbine - Worthington)	2GT	210 gpm @ 500 Ft.		1973
Boiler Feedwater Pump No. 4	2-Stage Horizontal Split Case (Motor Driven)	Ingersoll-Rand	2GT	210 gpm @ 500 Ft.	50	1973
Chiller No. 1	Turbine Driven Centrifugal	York Chiller (Murray Turbine)	1840S	1,800 Tons		1973
Chiller No. 2	Turbine Driven Centrifugal	York Chiller (Murray Turbine)	1840S	1,800 Tons		1973
Chiller No. 3	Turbine Driven Centrifugal	York Chiller (Murray Turbine)	1840S	1,800 Tons		1973
Cond. Water Pump No. 1	Horizontal-Split Case	Ingersoll-Rand	10-SD	550 gpm @ 140-Ft.	250	1973
Cond. Water Pump No. 2	Horizontal-Split Case	Ingersoll-Rand	10-SD	550 gpm @ 140-Ft.	250	1973
Cond. Water Pump No. 3	Horizontal-Split Case	Ingersoll-Rand	10-SD	550 gpm @ 140-Ft.	250	1973

MAJOR EQUIPMENT LIST

EQUIPMENT	DESCRIPTION	MANUFACTURER	MODEL NO.	CAPACITY	HORSEPOWER	YEAR INSTALLED
Cond. Water Pump No. 4	Horizontal-Split Case	Ingersoll-Rand	10-SD	550 gpm @ 140-Ft.	250	1973
Chilled Water Pump No. 1	Horizontal-Split Case	Ingersoll-Rand	8SE	3,800 gpm @ 275-Ft.	350	1973
Chilled Water Pump No. 2	Horizontal-Split Case	Ingersoll-Rand	8SE	3,800 gpm @ 275-Ft.	350	1973
Chilled Water Pump No. 3	Horizontal-Split Case	Ingersoll-Rand	8SE	3,800 gpm @ 275-Ft.	350	1973
Chilled Water Pump No. 4	Horizontal-Split Case	Ingersoll-Rand	8SE	3,800 gpm @ 275-Ft.	350	1973
Trans. Cond. Pump No. 1	Horizontal-Split Case (Motor Driven)	Ingersoll-Rand	3SA	420 gpm @ 125-Ft.	25	1973
Trans. Cond. Pump No. 2	Horizontal-Split Case (Turbine Driven)	Ingersoll-Rand	3SA	420 gpm @ 125-Ft.		1973
Trans. Cond. Pump No. 3	Horizontal-Split Case (Turbine Driven)	Ingersoll-Rand	3SA	210 gpm @ 125-Ft.		1973
Trans. Cond. Pump No. 4	Horizontal-Split Case (Motor Driven)	Ingersoll-Rand	3SA	210 gpm @ 125-Ft.	15	1973
CHW/HW Trans. Pump No. 1	Horizontal-Split Case	Ingersoll-Rand	4SDL	1,340 gpm @ 150-Ft.	75	1973
CHW/HW Trans. Pump No. 2	Horizontal-Split Case	Ingersoll-Rand	4SDL	1,340 gpm @ 150-Ft.	75	1973
Air Compressor No. 1	2-Cylinder - Reciprocating	Quincy			20	1973
Air Compressor No. 2	2-Cylinder - Reciprocating	Quincy			20	1973

EXHIBIT E

Liens and Encumbrances

1. Easements contained in liber 8793 cp. 345 and liber 9055 cp. 144.
2. Easements contained in liber 8641 cp. 9 and liber 9055 cp. 150.
3. Rights of Long Island Lighting Co., in and to that parcel or property approximately 20 feet by 30 feet on the southerly part of Demised Land as shown on map #9004 filed 3/24/83.
4. The exact locations, courses and dimensions of the pipe line easements leading from the C.U.P. to the Nassau County Veterans Memorial Coliseum and Marriott Hotel.
5. Survey made by Baldwin and Cornelius P.C. dated 10/4/89 shows a high one story building (central utilities building) with cooling structure (open - no roof). Further shows:
 - A. Long Island Lighting Co. easement, metal boxes and concrete covers on southerly part of Demised Land.
 - B. Concrete vault and concrete pads, (approximate location of underground fuel tanks) on southeast part of Demised Land.
 - C. Fence on street, dimensions not shown.
 - D. Fences lie up to 6 feet more or less north of southerly line, 3.65 feet west of easterly line and 3.40 feet east of westerly line.
 - E. Temporary working easement abutting north and west lines.
6. All violations of law or governmental ordinances, orders or requirements, noted or issued against the Demised Land by any governmental office, department or authority, whether before, on or after the date of this Lease.
7. All present and future zoning and building laws, ordinances, codes restrictions and regulations of the Town of Hempstead and all other governmental authorities having jurisdiction and all zoning variances and special exceptions, if any, and all present and future violations thereof, if any.
8. Any state of facts a current survey of the Demised Land or a physical inspection thereof would disclose (other than as

noted in paragraph 5 of this Exhibit E), including, without limitation, all encroachments and projections of the Demised Land upon or over streets or adjacent premises and all encroachments and projections on or over the Demised Land, provided they do not adversely affect the generation and distribution of thermal and electrical energy pursuant to this Lease and the Master Energy Agreement, and further provided that any such adverse effect shall be disclosed to Landlord in writing within sixty (60) days from the date hereof. Tenant's sole remedy in the event of such adverse effect timely disclosed to Landlord shall be to terminate this Lease and the Master Energy Agreement at Tenant's sole option exercisable upon notice to Landlord given in the manner provided in this Lease within that sixty (60) day period. Landlord shall not be obligated to take any action, incur any expenditure or initiate any proceedings to eliminate the encroachment, projection or other condition that results in such adverse effect. If Tenant elects not to exercise its option to terminate provided by this paragraph 8, Tenant shall have the right at its sole cost and expense, with the cooperation of Landlord, to take any and all action, including the right to initiate proceedings in the name and on behalf of itself and Landlord, to remove the encroachment, projection or other condition.

9. All rights, easements and agreements, whether or not of record, for the erection and/or maintenance of water, gas, electric, telephone, sewer or other utility pipe lines, poles, wires, cables, distribution boxes, conduits or other like facilities, and appurtenances thereof, in, over, across and under the Demised Land, provided they do not adversely affect the generation and distribution of thermal and electrical energy pursuant to this Lease and the Master Energy Agreement.
10. Consents by Landlord or any former owner of the Demised Land, in whole or in part, for the erection of any structure or structures on, under or above any street or streets on which the Demised Land or any portion thereof may abut, provided they do not adversely affect the generation and distribution of thermal and electrical energy pursuant to this Lease and the Master Energy Agreement.

EXHIBIT F

Description of Cogeneration Facility

Facility Description for Lease Agreement
EXHIBIT F

Page - 1

Facility Description

*See
APP.*

The Project will modify and expand the CUP, by constructing a combined cycle cogeneration facility. The peak output capacity of the system will be approximately 5⁷ MW. The cogeneration equipment will be enclosed in a new addition to the existing building. The key components will include a gas turbine generator; heat recovery steam generator; steam turbine generator; air cooled condenser; stack; new thermal distribution lines; and electrical system improvements.

The 40 MW (nominal) gas turbine is designed to fire natural gas as a primary fuel. It is equipped however to automatically change over to No. 2 fuel oil in the event that LILCO's gas service is interrupted. The heat recovery steam generator is capable of producing intermediate and high pressure steam (325 and 1320 psig). The intermediate pressure steam is injected into the gas turbine for NOx control. The high pressure steam is directed to the steam turbine generator where approximately 11.4 MW of power is generated at the average condition. A portion of steam is then extracted from the steam turbine to meet thermal distribution needs. Electricity produced will be first used in the CUP and then sold to LILCO.

The cogeneration equipment will be housed in a new addition to the CUP structure. The existing building is approximately 30,000 square feet on the 5.2 acre site. The site will be expanded by approximately 35 percent to accommodate the 70 percent expansion of the existing building. The architectural quality of the CUP will be preserved and the new stack will be an architecturally pleasing design.

*9/12/95
[Signature]*

Facility Description for Lease Agreement**Page - 2****New Structures**

The elements of the new facility include the cogeneration building, compressor building, air cooled condenser, lube oil tanks, lube oil pump house, electrical switchyard, gas meter station and stack.

The site dimensions are approximately 587 feet by 390 feet. Site changes will include the removal/replacement of existing underground utilities that interfere with the proposed construction, installation of new underground utilities and installation of paving for new roads, parking and maintenance access. The area north of the steam turbine generator will serve as access for heavy duty maintenance. The new area east of the compressor building will be utilized for automobile Parking.

Cogeneration Building

The main cogeneration building consists of an electrical room/shop bay, a turbine bay and a heat recovery bay. The electrical room/shop bay is a two level bay with the control room, administrative rooms, restrooms on the second floor and a shop and electrical room on the first floor. Both areas will be enclosed with external and internal walls.

The administrative requirements will be met with one conference room, a test lab, a technical reference room and two offices.

The shop will be provided with a bridge crane running the full length. A stairway will be provided at the west end, adjacent to the control room for ease of access to the existing CUP from the control room. Access will be

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Facility Description for Lease Agreement**Page - 3**

provided to the CUP corridor and the storage and maintenance area from the cogeneration building. This access will be enclosed.

The overall dimensions of the electrical room/shop bay will be approximately 25 feet by 195 feet. The floor clear heights will be approximately 17 feet and 12 feet respectively for the first and second floors.

The turbine bay encloses the gas turbine generator and the steam turbine generator in a single bay serviced by an overhead crane. The bay dimensions are approximately 50 feet by 195 feet. Bay height to be selected will ensure adequate crane clearances and compatibility with the heat recovery bay.

The heat recovery bay encloses the heat recovery steam generator, demineralizer system, tanks and pumps. The demineralizer system will be located on the second floor and the tanks will be located on the first floor, all adjacent to the heat recovery steam generator (HRSG).

Selected tanks will be provided with diked areas to provide for spill containment. The bay dimensions are approximately 75 feet by 75 feet. Bay height will ensure adequate clearance for the HRSG and for compatibility with the turbine bay. Maximum roof height is 54 feet.

Compressor Building

The compressor building will be located east of the heat recovery bay. This building will enclose the natural gas compressor and all associated

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Facility Description for Lease Agreement

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pipng, valves, controls, and control panels. The building size should be adequate for safe operation and convenient maintenance of the compressors. Monorails will be provided for maintenance of the compressors. Additional space will be provided for a future gas compressor.

Electrical Switchyard

The electrical switchyard is an open fenced area that encloses the step-up transformers, circuit breakers, utility switch and relay house.

Air Cooled Condenser

The air cooled condenser will be located north of the existing cooling tower, between the new cogeneration building and the electrical switchyard. The condenser provides the cogeneration system with a low temperature heat sink and will minimize water consumption at the facility.

Gas Meter Station

The gas meter station is an open fenced area that encloses the gas meters.

Stack

The stack is a single flue insulated design with an outlet approximately 135 feet above grade.

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Facility Description for Lease Agreement

Page - 6

for deaeration and initial heating of the condensate, and the hot water section provides for direct transfer of energy to the district heating loop.

The HRSG is equipped with a duct burner for use in increasing steam flow to meet peak thermal demands. This burner addresses pollution control through techniques of burner design. Rated capacity of the HRSG is 234,000 lb/hr of high pressure steam and 19,322 lb/hr of intermediate pressure steam.

The HRSG is provided with piping and auxillary equipment for natural gas and No. 2 fuel oil (for duct burner), condensate, feed water, district heating water coils, continuous blow down, intermittent blowdown and drains. Remotely controlled vents with silencers are also provided for venting high pressure and intermediate pressure steam during start-up or periods of load instability.

Steam Turbine Generator

The steam turbine generator located in the west end of the turbine bay is a nominal 11.4 MW (at average guarantee point) extraction/condensing unit. High pressure steam is routed to the unit at 1320 psig. Steam is extracted at 325 psig to serve the intermediate steam pressure requirements. The remaining steam flow is routed to the low pressure section of the unit for further generation of power. The steam turbine generator is provided with a air cooled condenser located outside the building, a lube oil purification system and waste oil drains. Power is generated at 13,200 volts and will be stepped up to 69,000 volts for distribution to the electrical system.

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Facility Description for Lease Agreement

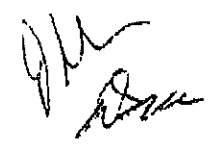
Page - 5

Mechanical Equipment and Systems**Gas Turbine Generator**

The gas turbine generator is a General Electric Frame 6 unit with a nominal rating of 40 MW. This unit is designed for firing natural gas as a primary fuel and equipped with controls for automatic change over to No. 2 fuel oil in the event of loss of natural gas pressure. Pollution control is incorporated in the combustion chamber design which provides for the use of steam injection to control NOx. An inlet air filtration/silencing system is provided outside to ensure good air quality and reduce radiated noise. Power is generated at 13,200 volts and will be stepped up to 69,000 volts for distribution to the LILCO electrical system. Exhaust gases of approximately 1,100,000 lb/hr at 1000 degrees F are routed to the Heat Recovery Steam Generator. The gas turbine generator is located in the east end of the turbine bay.

Heat Recovery Steam Generator

The Heat Recovery Steam Generator (HRSG) is a multiple pressure unit designed for deaeration/feedwater heating in a LP drum, production of 325 psig steam in an intermediate pressure section, and production of 1320 psig steam in a high pressure section. Intermediate pressure steam at 325 psig is used in the gas turbine for NOx control. Excess steam at 325 psig is combined with steam turbine extraction steam to provide services for the CUP and distribution through a new pipeline to the Nassau County Medical Center (NCMC). The high pressure steam is used for power generation in the steam turbine generator. The low pressure/deaerator section provides



Facility Description for Lease Agreement

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Natural Gas System


The natural gas system consists of separate piping for the GTG and HRSG duct burner. Natural gas is routed underground from the gas meter station to the compressor building for the GTG. The GTG fuel gas is compressed by the compressor to a pressure sufficient for combustion, and then routed underground to the GTG. The HRSG duct burner fuel gas is provided from the existing gas meter room in the CUP.

Fuel Oil System

The ten existing underground tanks located east of the cogeneration building will be cleaned as required to ensure a reliable and clean supply of No. 2 fuel oil to the GTG and HRSG duct burner. Two new No. 2 fuel transfer pumps will be located in or adjacent to the fuel oil pump vault. These pumps will be sized to provide the peak No. 2 fuel oil flow with an adequate margin. Fuel from these pumps will be routed to the gas turbine day tank and the HRSG duct burner. Two fuel forwarding pumps will take suction from the gas turbine day tank and provide fuel service to the GTG.

Steam System

The steam system is a multi-pressure system consisting of a high pressure system and an intermediate pressure system. The high pressure system is operated at 1320 psig and provides steam to the STG throttle and the parallel pressure reducing valve (PRV) station. The intermediate pressure system serves the remaining steam users by combining 325 psig steam with extraction steam from the steam turbine. This steam is provided by the intermediate pressure section of the HRSG and the turbine



Facility Description for Lease Agreement

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extraction system. Steam is routed from this intermediate pressure system through PRV stations to provide steam to the CUP, the Medical Center/Jail Complex and any other users.

Condensate Feedwater System

Condensate is routed to the cogeneration system from the CUP, medical center/jail complex and from other users, if any. This condensate is routed through a condensate polisher to the condensate return tank. Condensate is also routed to this tank from the air cooled condenser along with demineralized water from the demineralized water tanks and pumps. Condensate is routed from the condensate return tank to the low pressure/deaerator section of the HRSG. Water from this section is then routed by the boiler feed pumps to the intermediate and high pressure sections of the HRSG. The boiler feed pump is provided with an intermediate pressure discharge so that the same pump serves both pressure levels.

Air Cooled Condenser

The air cooled condenser is a forced draft closed circuit finned tube heat exchanger constructed outside the cogeneration building. Supporting structure will be integral with the condenser. Cooling fans will be two-speed, electric motor driven. Liquid ring vacuum pumps will be provided as part of the condenser to assist in system start-up. The low pressure steam duct will terminate at the steam turbine outlet. Condensing pressure will be automatically controlled by cycling condenser fans as required. Fan shrouds will be provided with acoustical treatment to comply with Nassau County noise requirements.





TRIGEN-NASSAU DISTRICT ENERGY CORP.
185 CHARLES LINDBERGH BLVD., GARDEN CITY, NY 11530
PHONE (516) 222-2884 FAX: (516) 794-1928

1615.1

Mr. Louis Dimitri
Senior Deputy Commissioner
NASSAU COUNTY Department of Public Works
1550 Franklin Avenue
Mineola, NY 11501

June 11, 1991

Re: Principal Term Commencement Date

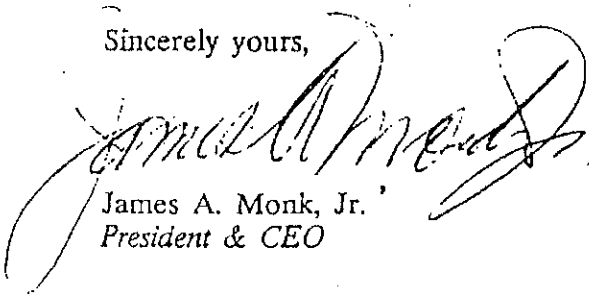
Dear Mr. Dimitri:

According to the Lease Agreement between the County of Nassau and Nassau-District Energy Corporation the Principal Term Commencement Date shall be that date when (A) Plant Acceptance shall have occurred, (B) NDEC shall have commenced delivery and sale of cogenerated heating and/or cooling service under the Master Energy Agreement and (C) the Commercial Operation Date with LILCO shall have occurred *or* the expiration of 36 months from the Construction Term Commencement Date *or* the cogeneration plant has been in operation for 30 days during which integrated operations shall have occurred.

Trigen-Nassau District Energy Corporation is pleased to acknowledge that all three of the principal criteria have been met since June 1, 1991. We believe the Principal Term Commencement Date is June 1, 1991 and hereby give you notice of that fact. If you do not agree with this determination, please let me know.

We are pleased to have achieved this important milestone and look forward to many years of first quality service to the County of Nassau.

Sincerely yours,


James A. Monk, Jr.
President & CEO

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Facility Description for Lease Agreement

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Auxillary Cooling Water System

The auxiliary cooling water system consists of an air cooled heat exchanger, circulating water pumps, compression tank and associated piping and valves. Auxillary cooling water system serves the heat exchangers on the GTG, STG, gas compressors and miscellaneous other users.

Demineralizer System

A two train demineralizer system is included to prepare portable water for use as boiler feedwater makeup as well as district heating water makeup. Each train consists of an anion and cation unit. Common acid and caustic day tanks with metering pumps are used for regeneration of both trains.

Compressed Air System

A packaged air compressor set will be included to provide oil free, dry compressed air for plant and instrument air use. The package includes two air compressors, two after coolers and two air dryers with filters and a receiver. The dryer will be the twin bed heatless regenerative type.

Waste Oil System

Waste oil from the lubrication and hydraulic systems of the gas turbine generator, steam turbine generator, gas compressors and other equipment will be collected in a collection tank. The tank contents will be pumped out periodically and loaded on a truck for disposal at a permitted facility.

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Facility Description for Lease Agreement

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HVAC System

The control room will be air conditioned by redundant 60% load systems. Supply fans, exhaust fans and unit heaters shall be used to maintain proper ambient conditions in the turbine and heat recovery areas, shop area, electrical room, compressor room and other areas. Administrative areas will also be air conditioned.

Electrical System Equipment

The existing electrical system at the CUP has four incoming feeders from Long Island Lighting Company (LILCO). These are 13,200 volt feeders and will be maintained as primary sources of power for the Nassau Community College, Coliseum, and the park. The existing CUP service will be disconnected from these feeders and will be provided power from the new cogeneration system. A new 13,200 volt backup feeder will provide backup power for the gas turbine generator, steam turbine generator, new CUP auxiliary loads and existing CUP loads. All power generated above that required for the CUP will be routed to a 13.2KV/69KV transformer for distribution to the LILCO grid.

Medium Voltage Switchgear

The medium voltage switchgear consists of an incoming line circuit breaker, two generator breakers, two station service tie breakers, four feeder breakers, four feeder switches, meters and protective relays all in a free standing metal enclosed line-up. The switchgear is located in the electrical room.

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Facility Description for Lease Agreement

Page - 11

The utility will provide a back-up emergency 13.2 KV power feeder to provide power to the CUP in event of co-generation bus failure. The feeder is connected to the station service bus through an isolation switch and main circuit breaker. This breaker is interlocked with the station service tie breaker and will automatically close if the station service bus is dead.

Four feeder breakers are provided to feed the existing CUP substations. The existing CUP feeder breakers in the east and west substations will be removed.

Step-Up Transformer

The step-up transformers are sized to deliver the net power output of the co-generation plant to the LILCO. They are outdoor forced air cooled units with enclosed side mounted low voltage bushings and exposed high voltage bushings. Transformer impedance will limit the available short circuit current at the LILCO substation to less than 25,000 amperes. The transformers are connected to the medium voltage switchgear by means of redundant cable buses with individual circuit breakers.

Inter-tie Circuit Breaker

An inter-tie circuit breaker is provided to ensure protection for the underground tie line and isolation from the grid in event of LILCO failure. Protective relaying for this breaker will be owned and maintained by LILCO. The breaker will be provided with a line side and two load side isolation switches for maintenance purposes.

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Facility Description for Lease Agreement

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5KV Station Service Substation

This unit substation consists of two fully sized outdoor transformers, two main circuit breakers with metering and relaying, a tie circuit breaker and five medium voltage motor controllers, all in a free standing metal enclosed line-up.

480V Station Service Substation

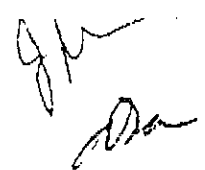
This unit substation consists of two (2) fully sized indoor transformers, ~~and~~ main 100% rated circuit breakers with metering and solid state trip units, and one tie circuit breaker and motor control center sections, all in a free standing, metal enclosed line-up.

Control Room Panel

A panel is provided to monitor and control the electrical functions of the plant. This panel includes a mimic bus with breaker control switches, meters, synchronizing equipment and alarms.

Station Control and Monitoring System

The control system will be composed of microcomputer based controllers for each individual area to provide analog control and discrete logic to obtain automatic equipment operation. The software configuration system will allow optimization, equipment protection and operator interface.

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Facility Description for Lease Agreement

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One controller will be used for each of the following:

1. Gas Turbine/Generator
2. Heat Recovery Steam Generator
3. Steam Turbine/Generator
4. Auxiliary plant facilities and remote location variables.

The controllers will be interconnected using a high speed data bus. Controllers will be able to communicate with each other as well as with the central control console and the station computer.

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EXHIBIT, G

Additional Pipe Easement and Survey

EXHIBIT H

Electrical Interconnect Survey

EXHIBIT I
Uninsurable Risks

FIRST AMENDMENT TO LEASE AGREEMENT

This First Amendment (this "Amendment"), is made by and between Nassau County, a municipal corporation having its principal office at the Nassau Executive Building, 1 West Street, Mineola, New York 11501 ("Landlord"), and Nassau District Energy Corp., a Delaware corporation authorized to do business in the State of New York, having an office at 1 Water Street, White Plains, New York 10601 ("Tenant")

W I T N E S S E T H

Whereas, Landlord and Tenant are simultaneously entering into a certain Lease Agreement dated as of the date hereof (the "Lease") in respect of the Premises, and

Whereas, Landlord and Tenant wish to amend certain provisions of the Lease,

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter contained, the parties agree as follows:

1. Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed thereto in the Lease.
2. Supplementing the provisions of Section 8.01 of the Lease, it is further agreed as follows:

RECORDED WITH DBA LEASE ON 8/17/92

gk
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A. The Tenant shall establish a preventive maintenance program ("C.U.P. PM Program") with respect to the C.U.P., the Equipment and the Existing Pipes, which shall be submitted to Landlord for its approval, not to be unreasonably withheld or delayed, on or prior to 180 days after the Effective Date. Landlord shall have an opportunity to promptly comment upon and suggest revisions to the C.U.P. PM Program until such time as the C.U.P. PM Program meets its reasonable approval. The approved C.U.P. PM Program shall

- (i) incorporate appropriate maintenance schedules indicated by the manufacturers of the Equipment in the C.U.P. and the Existing Pipes, which schedules shall, to the extent in Landlord's possession, be supplied to Tenant by Landlord,
- (ii) take cognizance of the maintenance previously performed on the C.U.P., the Equipment and the Existing Pipes by or for the benefit of Landlord (the records of which to the extent in its possession shall be supplied to Tenant by Landlord),
- (iii) establish certification and/or qualification standards for company personnel who will test meter(s) pursuant to Section 2.3 of the Master Energy Agreement, (iv) provide for concurrent maintenance of written preventive maintenance logbooks or records, which shall be subject to joint review of Landlord and Tenant and (v) establish detailed standards, procedures and staffing qualifications for emergency operation of the C.U.P.

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B. Each party shall designate from time to time a single representative who shall, after notification in writing of the other party of such designation, be the sole C.U.P. PM Program coordinator for that party.

C. Each of Landlord and Tenant shall designate not less than two and not more than four individuals to serve on a "C.U.P. Preventive Maintenance Committee", which designation shall include the persons described in Subsection B above, and one or more (but not more than three) additional persons from time to time who shall serve as an operating committee for the term of the Lease and shall establish regular meetings no less frequent than every three months, and shall attempt to communicate all concerns of each party and resolve issues relating to maintenance of the C.U.P., the Equipment and Existing Pipes. Minutes of each meeting shall be kept and become a part of the contract files.

3. This Amendment may be executed in one or more counterparts each of which shall be an original, but all of which taken together shall constitute one and the same agreement.

JH
WDM

4. Other than as expressly set forth herein, the Lease shall remain in full force and effect in all other respects, and shall remain binding upon the parties thereto and their respective successors and assigns.

IN WITNESS WHEREOF, Tenant has executed this Amendment as of this 19 day of JANUARY, 1990, and the County of Nassau has executed this Amendment as of this 2ND day of February, 1990.

Nassau District Energy Corp.

By: [Signature]

County of Nassau

By: [Signature]

County Executive

APPROVED:

[Signature]
Deputy County Attorney

[Signature]
Commissioner, Department of
General Services

[Signature]
Commissioner, Department of
Public Works

[Signature]
Executive Director
Nassau County Medical Center

[Signature]
County Comptroller

[Signature]

STATE OF NEW YORK)

COUNTY OF NASSAU)

ss.:

On this day of , 1990 before me personally appeared THOMAS S. GULLOTTA, County Executive of the County of Nassau, the municipal corporation described herein, and who executed the foregoing instrument, to me known and known to me to be such County Executive and he being by me duly sworn, did depose and say: that he is the County Executive of Nassau County; and that he executed the same as such County Executive for the purposes therein mentioned.

NOTARY PUBLIC

STATE OF NEW YORK)

COUNTY OF NASSAU)

ss.:

On this 2nd day of February, 1990, before me personally appeared Santa C. Rozzi, Deputy County Executive of the County of Nassau, the municipal corporation described herein and who executed the foregoing instrument, to me known and known to me to be such Deputy County Executive, and she by me being duly sworn, did depose and say: that she is the Deputy County Executive of the County of Nassau and that pursuant to Section 205 of the County Government Law of Nassau County executed the same as such Deputy County Executive for the purposes therein mentioned.

NOTARY PUBLIC

STATE OF NEW YORK)

COUNTY OF WESTCHESTER)

ss.:

DANIEL J. McCLOY
NOTARY PUBLIC, State of New York
No. 30-4795435
Qualified in Nassau County
Commission Expires March 30, 1991
NJC

On this 19th day of January, 1990 before me personally came John Martorella to me known, who being by me duly sworn, did depose and say: that he resides at 1 Birch Lane, Valley Stream, New York, 11581 and that he is the vice president of Nassau District Energy Corp. the corporation described in and which executed the above agreement; and that he signed his name thereto by order of its Board of Directors.

NOTARY PUBLIC

MICHAEL SCOTT GILLILAND
Notary Public, State of New York
No. 31-4700344
Qualified in New York County
Commission Expires March 30, 1991
February 28, 1991



TRIGEN-NASSAU DISTRICT ENERGY CORP.
185 CHARLES LINDBERGH BLVD., GARDEN CITY, NY 11530
PHONE: (516) 222-2884 FAX: (516) 794-1928

February 10, 1993

Department of General Services
County Executive Building
1 West Street
Mineola, New York 11501

Attention : Commissioner

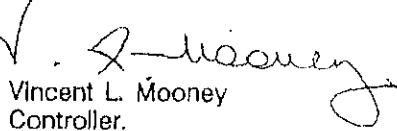
Certified Mail

Dear Sir:

In accordance with the terms of our lease agreement we enclose herewith a certification by our auditors, KPMG Peat Marwick, as to the Company's net worth at its fiscal year end, September 30, 1992. As you will see the total net worth of \$11,516,000 exceeds the \$6,500,000 minimum required by the lease agreement.

Since this is a privately held corporation we request that this information be kept confidential.

Very truly yours


Vincent L. Mooney
Controller.

cc: Raymond A. Luxton
Howard S. Gorman.



TRIGEN-NASSAU DISTRICT ENERGY
185 CHARLES LINDBERGH BLVD., GARDEN
PHONE: (516) 222-2884 FAX: (516) 794-

March 27,

Department of General Services
County Executive Building
1 West Street
Mineola, New York 11501
Attention : Commissioner

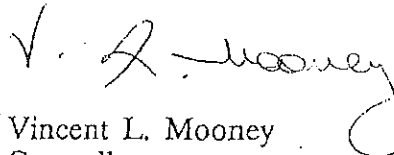
CERTIFIED MAIL

Dear Sir:

In accordance with the terms of our lease agreement we enclose herewith a certification by our auditors, KPMG Peat Marwick, as to the Company's net worth at its fiscal year end, September 30, 1991. As you will see, the total net worth of \$10,924,000 far exceeds the \$6,500,000 minimum required by the lease agreement.


Since this is a privately held corporation we request that this information be kept confidential.

Yours truly


Vincent L. Mooney
Controller

cc: James A. Monk Jr.
Howard S. Gorman

P 901 963 327

 **Certified Mail Receipt**
No Insurance Coverage Provided
Do not use for International Mail
(See Reverse)

Sent to	
Department of General Svs.	
Street & No.	
County Executive Bldg.	
1 West Street	
P.O., State & ZIP Code	
Mineola, N.Y. 11501	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Address of Delivery	
TOTAL Postage & Fees	\$ 2.29
Postmark or Date	

PS Form 3800, June 1990



Peat Marwick

Certified Public Accountants

Westchester Financial Center
11 Martine Avenue
White Plains, NY 10606

Independent Auditors' Report

The Board of Directors
Trigen-Nassau District Energy Corporation:

We have audited the balance sheet of Trigen-Nassau District Energy Corporation as of September 30, 1991 and the related statements of operations and cash flows for the year ended September 30, 1991 and have issued our unqualified report thereon dated November 27, 1991. Our audit was performed in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

At your request, we have compared the following amounts of common stock, additional paid-in capital, accumulated earnings and total stockholder's equity as of September 30, 1991 to the balance sheet of Trigen-Nassau District Energy Corporation, as of September 30, 1991 and found them to be in agreement.

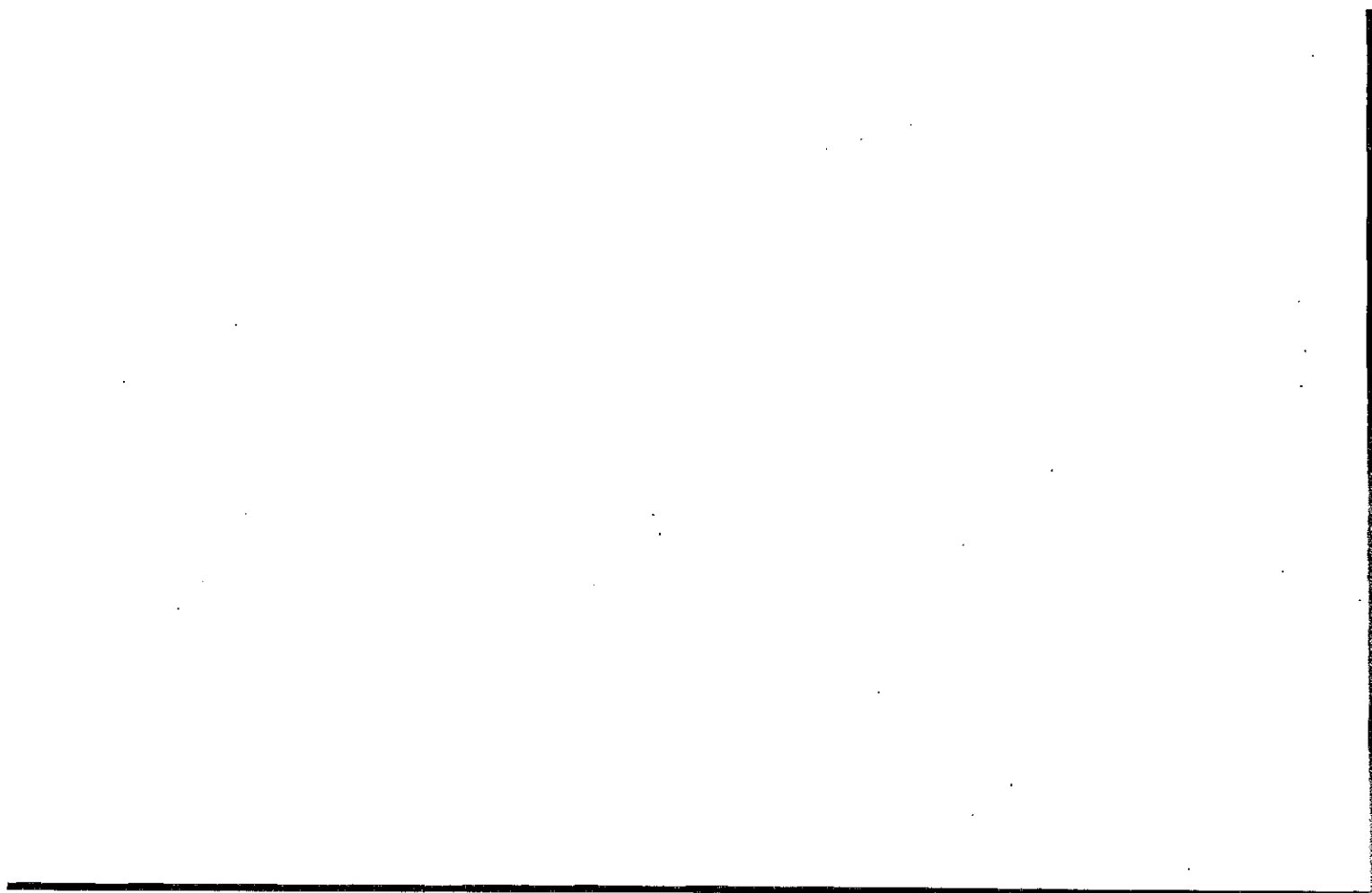
	<u>In Thousands</u>
Common stock - authorized, issued and outstanding 1,000 shares, \$.01 par value	\$ -
Additional paid-in capital	10,707
Accumulated earnings	<u>217</u>
Total stockholder's equity	<u>\$10,924</u>

Because the additional procedures do not constitute an audit in accordance with generally accepted auditing standards, we express no opinion on any of the specific amounts referred to above. This report relates only to the amounts specified above and does not extend to any financial statements of Trigen-Nassau District Energy Corporation, taken as a whole.

November 27, 1991

KPMG Peat Marwick





COUNTY OF NASSAU

CONSULTANT'S, CONTRACTOR'S AND VENDOR'S DISCLOSURE FORM

1. Name of the Entity: Nassau Energy, LLC

Address: 1990 Post Oak Blvd., Suite 1900

City, State and Zip Code: Houston, TX 77056

2. Entity's Vendor Identification Number: 13-3407290

3. Type of Business: ☐ Public Corp ☐ Partnership ☐ Joint Venture

☒ Ltd. Liability Co ☐ Closely Held Corp ☐ Other (specify)

4. List names and addresses of all principals; that is, all individuals serving on the Board of Directors or comparable body, all partners and limited partners, all corporate officers, all parties of Joint Ventures, and all members and officers of limited liability companies (attach additional sheets if necessary):

Nassau Energy, LLC (fka Nassau Energy Corporation and fka Trigen-Nassau Energy Corporation), a Delaware Corporation

Directors: Herman Schopman (Chairman), Patrick Gaussent, Stefaan Sercu

Officers: Herman Schopman (President), Steven R. Gavin (Secretary), Cecilia Heilmann (VP and Treasurer), Charles Davis (VP), Michael L. Fields (VP), John Shue (VP), Rachel W. Kilpatrick (VP and Assistant Secretary), Stefaan Sercu (VP), Felisa Ros (VP)

Address for Directors and Officers: 1990 Post Oak Blvd., Suite 1900, Houston, TX 77056

5. List names and addresses of all shareholders, members, or partners of the firm. If the shareholder is not an individual, list the individual shareholders/partners/members. If a Publicly held Corporation, include a copy of the 10K in lieu of completing this section.

Nassau Energy, LLC is indirectly wholly owned by its North American parent company, GDF Suez Energy North America, Inc. which in turn is indirectly owned by its ultimate parent company, GDF Suez, S.A., formed in France

6. List all affiliated and related companies and their relationship to the firm entered on line 1. above (if none, enter "None"). Attach a separate disclosure form for each affiliated or subsidiary company that may take part in the performance of this contract. Such disclosure shall be updated to include affiliated or subsidiary companies not previously disclosed that participate in the performance of the contract.

See answer to item #5. GDF Suez Energy North America, Inc. provides corporate support services to Nassau Energy, LLC

7. List all lobbyists whose services were utilized at any stage in this matter (i.e., pre-bid, bid, post-bid, etc.). The term "lobbyist" means any and every person or organization retained, employed or designated by any client to influence - or promote a matter before - Nassau County, its agencies, boards, commissions, department heads, legislators or committees, including but not limited to the Open Space and Parks Advisory Committee and Planning Commission. Such matters include, but are not limited to, requests for proposals, development or improvement of real property subject to County regulation, procurements, or to otherwise engage in lobbying as the term is defined herein. The term "lobbyist" does not include any officer, director, trustee, employee, counsel or agent of the County of Nassau, or State of New York, when discharging his or her official duties.

(a) Name, title, business address and telephone number of lobbyist(s):

N/A

(b) Describe lobbying activity of each lobbyist. See page 4 of 4 for a complete description of lobbying activities.

N/A

(c) List whether and where the person/organization is registered as a lobbyist (e.g., Nassau County, New York State):

N/A

8. VERIFICATION: This section must be signed by a principal of the consultant, contractor or Vendor authorized as a signatory of the firm for the purpose of executing Contracts.

The undersigned affirms and so swears that he/she has read and understood the foregoing statements and they are, to his/her knowledge, true and accurate.

Dated:

1/21/2015

Signed:



Print Name:

JOSEPH SERU

Title:

Vice President

The term lobbying shall mean any attempt to influence: any determination made by the Nassau County Legislature, or any member thereof, with respect to the introduction, passage, defeat, or substance of any local legislation or resolution; any determination by the County Executive to support, oppose, approve or disapprove any local legislation or resolution, whether or not such legislation has been introduced in the County Legislature; any determination by an elected County official or an officer or employee of the County with respect to the procurement of goods, services or construction, including the preparation of contract specifications, including by not limited to the preparation of requests for proposals, or solicitation, award or administration of a contract or with respect to the solicitation, award or administration of a grant, loan, or agreement involving the disbursement of public monies; any determination made by the County Executive, County Legislature, or by the County of Nassau, its agencies, boards, commissions, department heads or committees, including but not limited to the Open Space and Parks Advisory Committee, the Planning Commission, with respect to the zoning, use, development or improvement of real property subject to County regulation, or any agencies, boards, commissions, department heads or committees with respect to requests for proposals, bidding, procurement or contracting for services for the County; any determination made by an elected county official or an officer or employee of the county with respect to the terms of the acquisition or disposition by the county of any interest in real property, with respect to a license or permit for the use of real property of or by the county, or with respect to a franchise, concession or revocable consent; the proposal, adoption, amendment or rejection by an agency of any rule having the force and effect of law; the decision to hold, timing or outcome of any rate making proceeding before an agency; the agenda or any determination of a board or commission; any determination regarding the calendaring or scope of any legislature oversight hearing; the issuance, repeal, modification or substance of a County Executive Order; or any determination made by an elected county official or an officer or employee of the county to support or oppose any state or federal legislation, rule or regulation, including any determination made to support or oppose that is contingent on any amendment of such legislation, rule or regulation, whether or not such legislation has been formally introduced and whether or not such rule or regulation has been formally proposed.